

STATE OF MICHIGAN
30th JUDICIAL CIRCUIT COURT (INGHAM)
CIVIL DIVISION

HUWAIDA ARRAF, JENNIFER KIRBY,
and MADELEINE TOCCO,

Plaintiffs,

v.

Case No. 24-711-CK

MICHIGAN DEMOCRATIC PARTY,
and LAVORA BARNES, Chair of the
Michigan Democratic Party,

and

JOCELYN BENSON, Michigan
Secretary of State,

Defendants.

/

MOTION FOR TEMPORARY RESTRAINING ORDER
AND/OR PRELIMINARY INJUNCTION
BEFORE THE HON. JAMES S. JAMO, CIRCUIT JUDGE
Lansing, Michigan - September 6, 2024

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1 Lansing, Michigan

2 September 6, 2024

3 9:09 a.m.

4 THE COURT: Good morning. We are on
5 the record in the matter of Huwaida, et al.
6 versus the Michigan Democratic Party, Lavora
7 Barnes, and Jocelyn Benson. This is Case
8 Number 24-711-CK.

9 We are here this morning for a hearing
10 on the plaintiffs' emergency motion for
11 preliminary injunction after the Court had
12 yesterday denied the plaintiffs' emergency
13 motion for a temporary restraining order and
14 subsequently denied the plaintiffs' -- renewed,
15 I guess it was entitled -- renewed emergency
16 motion for temporary restraining order.

17 Counsel, will you put your appearance
18 on the record for us, please? We'll start on
19 the plaintiff side. Go ahead, sir.

20 MR. AKEEL: Good morning, Your Honor.
21 Shereef Akeel on behalf of the
22 plaintiffs.

23 THE COURT: Can you introduce who you
24 have at counsel table?

25 MR. AKEEL: Sure. Next to me is

1 Plaintiffs Huwaida Arraf, Jennifer Kirby, and
2 Madeleine Tocco.

3 THE COURT: And then, Mr. Eldridge, go
4 ahead, sir.

5 MR. ELDRIDGE: Good morning,
6 Your Honor.

7 Scott Eldridge on behalf of Defendants
8 Michigan Democratic Party and Lavora Barnes.

9 THE COURT: Ms. Meingast.

10 MS. MEINGAST: Good morning,
11 Your Honor.

12 Assistant Attorney General Heather
13 Meingast on behalf of Defendant Secretary of
14 State.

15 MR. GRILL: Good morning, Your Honor.
16 Assistant Attorney General Erik Grill, also on
17 behalf of Secretary Benson.

18 THE COURT: All right. I just received
19 a written appearance by Ms. Meingast for
20 Defendant Benson.

21 THE LAW CLERK: Your Honor, I did also
22 just receive the appearance for Mr. Grill via
23 email.

24 THE COURT: Okay. Very good.

25 Mr. Akeel, this is a motion -- as I

1 said, a motion for preliminary injunction. I
2 assume you agree it is the plaintiffs' burden.

3 MR. AKEEL: Correct.

4 THE COURT: With regard to that then,
5 how do you wish to proceed? Are you intending
6 to present testimony or some other evidence or
7 just argument?

8 MR. AKEEL: Well, Your Honor, I plan to
9 present an argument and I have one -- at least
10 two witnesses in the courtroom right now that
11 would be able to testify.

12 THE COURT: So do you want them to
13 testify?

14 MR. AKEEL: Yes. One of them,
15 Mr. Liano Sharon, who we submitted a declaration
16 attached as part of our verified complaint, he's
17 in the courtroom right now. So I wouldn't want
18 to do any arguments, unless the Court doesn't
19 see any harm to it, with him present in the
20 courtroom if we could do our hearing. So after
21 the argument.

22 THE COURT: Let me make sure I
23 understand.

24 MR. AKEEL: Sure.

25 THE COURT: Are you asking that that

1 testimony be presented first or that you present
2 your argument first with the witness excluded
3 from the courtroom?

4 MR. AKEEL: Correct. I'll present the
5 argument first and then I will have Mr. Sharon
6 come to testify following my presentation.

7 THE COURT: Is it your suggestion that
8 Mr. Sharon -- how do you spell that for the
9 record?

10 MR. AKEEL: L-i-o-n-a --

11 UNIDENTIFIED VOICE: L-i-a.

12 THE COURT: Okay. We can't have people
13 from the gallery -- you can speak to the
14 attorney, but in terms of making a record.

15 MR. AKEEL: L-i-a-n-o, S-h-a-r-o-n.
16 That's Exhibit 8.

17 THE COURT: So you are saying,
18 Mr. Akeel, that that witness will be excused
19 from the courtroom while you argue? Is that
20 what you are saying?

21 MR. AKEEL: Your Honor, I just don't
22 want to invite any argument that there is unfair
23 prejudice. I'm disclosing now that there is a
24 witness that would participate in a mini hearing
25 following the argument that I will present

1 before you.

2 THE COURT: Okay. Mr. Eldridge and
3 Ms. Meingast's position as to that?

4 MR. ELDRIDGE: No objection,
5 Your Honor. We'll follow the Court's lead.

6 THE COURT: No objection to having the
7 witness in the courtroom?

8 MR. ELDRIDGE: Correct.

9 THE COURT: Ms. Meingast, your
10 position?

11 MS. MEINGAST: No position.

12 THE COURT: Your preference then,
13 Mr. Akeel, whether you wish the witness to stay
14 or not stay during your argument.

15 MR. AKEEL: Thank you, Your Honor. He
16 can stay.

17 THE COURT: Very good.

18 MR. AKEEL: Just want to make sure and
19 follow the proper formalities.

20 THE COURT: Before you begin your
21 argument, is there anything else preliminarily
22 from the defendants' side, Mr. Eldridge,
23 Ms. Meingast, or Mr. Grill?

24 MR. ELDRIDGE: No, Your Honor.

25 THE COURT: Go ahead, Ms. Meingast.

1 MS. MEINGAST: I think I just would
2 like to make a preliminarily note that as the
3 Court probably knows --

4 THE COURT: Could you keep your voice
5 up a little bit?

6 MS. MEINGAST: I would like to note
7 preliminarily that I'm sure the Court knows that
8 it does not have jurisdiction over the Secretary
9 here. We are happy to sit and listen, but --

10 THE COURT: Your reference is with
11 regard to whether the complaint was served on
12 the Secretary of State?

13 MS. MEINGAST: Not necessarily with
14 respect to service. It hasn't been served.

15 Also, this Court does not have
16 jurisdiction over the Secretary of State under
17 the --

18 THE COURT: Because of the court of
19 claims jurisdiction.

20 MS. MEINGAST: Right. I want to put
21 that out there right now.

22 THE COURT: All right.

23 MR. ELDRIDGE: Your Honor, if I may, I
24 do have one housekeeping matter.

25 THE COURT: Go ahead, Mr. Eldridge.

1 MR. ELDRIDGE: Just for the record, we
2 did submit and file this morning and served on
3 all counsel of record a written response to the
4 motion that was filed yesterday in opposition to
5 the request for preliminary injunctive relief.
6 We assume Your Honor has seen it.

7 THE COURT: I have read it.

8 MR. ELDRIDGE: Okay. Thank you.

9 THE COURT: And I think that was the
10 only pleading that was filed in response -- the
11 only pleading you filed, Mr. Eldridge.

12 MR. ELDRIDGE: Correct. That's the
13 only thing we have filed thus far.

14 THE COURT: Ms. Meingast, I'm not
15 overlooking anything? I'm not suggesting you
16 would have filed something, but --

17 MS. MEINGAST: No, Your Honor. We
18 haven't filed anything but the appearances.

19 THE COURT: All right. With that,
20 Mr. Akeel, go ahead, sir.

21 MR. AKEEL: May I approach?

22 THE COURT: You may.

23 MR. AKEEL: Thank you.

24 Your Honor, first I would like to thank
25 the Court for indulging us and for allowing us

1 to have this opportunity to be heard in this
2 very serious matter.

3 I represent Plaintiffs Huwaida Arraf,
4 Jennifer Kirby, and Madeleine Tocco. We are
5 seeking a preliminarily injunction to stay the
6 nomination process that is supposed to be
7 finalized today for the Board of Regents for the
8 University of Michigan pending the appeal filed
9 by Huwaida Arraf with the Michigan Democratic
10 Party.

11 This is the ideal remedy to preserve
12 the status quo so that, upon final hearing, the
13 rights of the parties may be determined without
14 injury to either. Michigan Council, 25136 Mich.
15 App. 21.

16 It is our strong belief as well that
17 the appeal will lead to a different result.

18 On August 24, 2024, the defendant,
19 Michigan Democratic Party, MDP, held its annual
20 state nominating convention at the Lansing
21 Center in the city of Lansing to, among other
22 things, elect the party's nominee for the
23 University of Michigan Board of Regents.

24 There were two seats up for nomination
25 and three candidates. Plaintiff Arraf was one

1 of the three candidates. The two others were
2 Denise Ilitch and Shauna Ryder-Diggs, who were
3 presented as a unity slate, which is Exhibit 6
4 and it's stated "unity slate."

5 This is a situation where there are
6 multiple-position offices up for voting in which
7 delegates vote for a group of candidates
8 appearing on one slate list to fill those
9 openings, which is further described at
10 Exhibit 3.

11 Based on MDP's own rules in tallying up
12 votes, Plaintiff won one of the nominations.
13 Unfortunately, for reasons discussed below, MDP
14 arbitrarily ignored its own rules for voting,
15 Exhibit 3, and chose the two other candidates
16 instead.

17 In fact, we attached a recent article
18 describing how MDP botched the voting authored
19 by Liano Sharon, who helped author the voting
20 rules for the Democratic Party. He was part of
21 the committee that wrote the rules on how to
22 vote. We have also attached Mr. Sharon's
23 affidavit, Exhibit 8. Mr. Sharon is here to
24 testify.

25 After these surprising results on

1 August 24, 2024, Plaintiff immediately contested
2 the results late that same evening of the
3 voting, Exhibit 11. MDP ignored the challenge
4 and submitted the two names regardless to be
5 finalized today, September 6, to be placed on a
6 November ballot.

7 On Monday, the immediate Monday,
8 August 28, 2024, Plaintiff filed a formal
9 appeal, Exhibits 14 and 15, but according to its
10 rules, it takes up to 30 days to resolve that
11 matter which is long past the September 6th
12 deadline. It's an exercise in futility
13 essentially as explained further below.

14 Immediate court intervention is
15 necessary to simply compel MDP to follow its own
16 rules and bylaws to stay the Secretary of State
17 from finalizing the two candidates until the
18 appeal is concluded by MDP, which we are
19 confident will result in Plaintiff to be placed
20 on the ballot.

21 Your Honor, it is our position that we
22 have satisfied or we will be able to satisfy the
23 elements to have a preliminary injunction issued
24 and that, one, there is a likelihood that
25 Plaintiff will prevail on the merits; two,

1 Plaintiff will suffer irreparable harm if
2 injunctive relief isn't issued; three, the harm
3 to Plaintiff in the absence of injunction
4 outweighs the harm to the opposing party if
5 injunction is granted; and, four, the harm to
6 the public interest, if any, if an injunction is
7 issued favors Plaintiff.

8 With respect to element number one, the
9 MDP is governed by its bylaws, Exhibit 5.
10 Bylaws indicate a binding contractual agreement
11 between an entity and members, *Colin versus*
12 *Upton*, 313 Mich. App. 243. A political party's
13 failure to comply with its bylaws constitute a
14 breach of contract. See *Hillsdale County*
15 *Republican Executive Committee versus Daren*
16 *Wiseley*.

17 Your Honor, in this junction here with
18 respect to element number one, likelihood to
19 succeed, there are five reasons why Plaintiff
20 likelihood to succeed (sic).

21 First, the MDP used the wrong method to
22 tabulate votes. Under section 2.1 of the MDP
23 rules of voting and election, the University of
24 Michigan Regents constituted multiple-office
25 positions. More than one position was available

1 for the same office.

2 Importantly, Exhibit 5 of the bylaws
3 indicate that no bylaws adopted in any unit of
4 the MDP shall be valid unless publicly posted on
5 the MDP website.

6 What was publicly posted on the MDP
7 website was Exhibit 3, titled rules for voting
8 and election in the Michigan Democratic Party.
9 That was the only rules that were posted. Thus,
10 the MDP was required to apply the method of
11 slate voting described in sections 6.4 and 6.5.

12 However, the MDP incorrectly applied
13 the majority voting tabulation procedure, which
14 resulted in a unity slate winning both seats.

15 Had they used a slating method, Huwaida
16 wins one of those positions.

17 Reason number two -- one thing
18 regarding reason number one, Your Honor, is
19 Mr. Sharon will testify that there was a voting
20 procedure change in 2018. He was on that
21 committee. It was important to eliminate all
22 methods of voting except two, the majority and
23 the slate voting, for such matters, and the
24 testimony will be forthcoming.

25 The second reason, Your Honor, is

1 Defendants MDP and the chairperson for MDP,
2 Barnes, failed to properly ratify with a quorum
3 of the state central committee pursuant to the
4 relevant call to convention.

5 Your Honor, a majority of DSCC members
6 were required to attend the post-convention
7 meeting to constitute a quorum for the proper
8 conduct of DSCC business. See verified
9 complaint Exhibit 5.

10 However, as set forth in the verified
11 complaint, a DSCC member who was present at the
12 post-convention meeting reports that there were
13 only about 20 people present and that we
14 definitely did not have a quorum.

15 Reason number three, Defendants MDP and
16 Barnes's conduct permitted non-properly
17 credentialed members to cast their vote. At the
18 start of the convention, Defendant Barnes
19 reported publicly that the number of
20 credentialed voters entitled to vote was 1,248.
21 However, the voting data file that Defendant
22 Barnes emailed to Arraf on August 25, 2024,
23 listed 1,422.

24 There was a difference of 174 more
25 votes than were reported credentialed. See

1 verified complaint Exhibit 12, 14, paragraph
2 three.

3 Your Honor, the fourth reason,
4 Defendant MDP and Barnes refused to release the
5 raw unfiltered voting data which also
6 constitutes a breach by effectively converting
7 the vote into a secret ballot.

8 Repeated attempts were made to get the
9 raw data -- not the data that was used to
10 establish the vote, the actual raw data, the
11 unfiltered raw data to have that contemplated
12 transparency that was expected.

13 The fifth reason, Your Honor, is that
14 Plaintiffs are likely to succeed on the merits
15 under Michigan Nonprofit Corporation Claim
16 MCL 450.2487(2), which guarantees members of a
17 nonprofit corporation the right to inspect
18 certain records of the corporation upon
19 reasonable request made in writing and delivered
20 to the corporation's principal business.

21 I'm going to element number two.
22 Plaintiff will suffer irreparable harm if
23 injunctive relief is not granted. In order to
24 establish irreparable harm, the moving party
25 must demonstrate a noncompensable injury for

1 which there is no legal measurement of damages
2 for which damages cannot be determined to a
3 sufficient degree of certainty.

4 Here, should the printing of the
5 general election ballots go forward with
6 Candidates Ilitch and Diggs without regard to
7 Plaintiff Arraf's appeal where the two
8 candidates were selected under the flawed and
9 improper nomination process, Plaintiff Arraf, as
10 well as the other plaintiffs who voted for her,
11 will suffer an irreparable injury of being
12 omitted from the general election ballot in
13 violation of their rights as a member of the MDP
14 under the MDP bylaws and governing rules.

15 It also goes without saying that if the
16 appeal is not heard and their rights are not
17 attended to, that can lead to constitutional
18 violations. And under the 6th Circuit, even a
19 single constitutional injury can constitute
20 irreparable harm.

21 Your Honor, this is element three. The
22 harm to the plaintiffs heavily outweigh the harm
23 to the defendants. While defendants may suffer
24 a slight harm of a temporary pause of submission
25 of the names by September 6 to the Secretary of

1 State -- I'm sorry -- by finalizing the names on
2 September 6, this harm is far outweighed by the
3 irreparable harm that will be suffered by
4 Plaintiff Arraf as a candidate and the other
5 plaintiffs that casted votes in support of
6 Plaintiff Arraf.

7 Maintaining the status quo -- the
8 status quo pending the appeal -- is the only way
9 to ensure that the irreversible rights -- the
10 irreversible injuries to rights as members of
11 the MDP as secured by the bylaws and governing
12 rules does not occur.

13 Finally, Your Honor, the public
14 interest will not be harmed if an injunction is
15 granted. It is well understood that there is a
16 public interest in preserving the ability of
17 parties freely to enter contracts and to seek
18 judicial enforcement of such contracts, like
19 bylaws here, and in providing judicial remedies
20 for breaches. *Gerald Pollock Association versus*
21 *Pollock*.

22 It's indisputable that MDP's bylaws and
23 the governing rules are a contract between MDP
24 and its members, including Plaintiff. An
25 injunction would further the public interest by

1 ensuring that MDP and its officials simply
2 comply with the contractual terms and by
3 ensuring that the candidates advanced by MDP for
4 the University of Michigan Regents are properly
5 selected in conformity with the contractual
6 terms.

7 Having that appeal entertained is a
8 contemplation between the parties and it was a
9 meeting of the minds in the contract between the
10 members and the bylaws -- between the members
11 and MDP, and the public interest would be served
12 to simply enforce the contract.

13 As always, Your Honor, it's always in
14 the public interest to prevent the violation of
15 a party's constitutional rights. That's
16 always -- that's in favor of Plaintiffs.

17 For those reasons stated above,
18 Your Honor, we request a preliminary injunction
19 to order Defendant MDP, through its officials
20 including Defendant Barnes, to conduct a full,
21 transparent investigation or audit the
22 university voting process or recount in
23 conformity with MDP bylaws, to order Defendant
24 MDP, by and through its officials including
25 Defendant Barnes, to expedite Plaintiffs' appeal

1 process.

2 That voting process -- the whole matter
3 took place in one day. The voting tally --
4 there were less than 2,000. I mean, we are not
5 dealing with a Herculean task that will take two
6 or three weeks to recount the votes. It could
7 be something that is doable.

8 Your Honor, at this time I give way
9 unless there is any questions by the Court.

10 THE COURT: I do have a couple
11 questions for you, Mr. Akeel.

12 MR. AKEEL: Sure.

13 THE COURT: First of all, focusing for
14 a moment on the Secretary of State, what
15 authority do you have to provide to me that the
16 internal rules or workings of the Democratic
17 Party and whether they were violated or not
18 translate into something that's binding on the
19 Secretary of State?

20 In other words, how is it that I have
21 authority -- set aside jurisdiction. I'm going
22 to address that in a moment.

23 How is it that even if I agreed with
24 your arguments with regard to the process and
25 the procedure that the Democratic Party followed

1 or didn't follow, as you argue -- even if I
2 agree with you and grant you whatever relief
3 that you indicate you're requesting with regard
4 to the appeal or the disclosure of information,
5 how does that ultimately result in what you are
6 asking me to do with regard to stopping the
7 Secretary of State from finalizing the ballot
8 today?

9 Is there some authority that you have
10 that says that I can do that? Again, apart from
11 jurisdiction. We are talking about the court of
12 claims in a moment.

13 MR. AKEEL: Mm-hmm.

14 THE COURT: Just in general, is there
15 some authority that you are aware of?

16 MR. AKEEL: Well, Your Honor --

17 THE COURT: Because you are asking for
18 equitable relief. I could give you everything
19 you want with regard to the claim against the
20 chair of the Democratic Party and the Democratic
21 Party itself, but then there's still another
22 step to go to -- I mean, maybe that ultimately
23 will be of some satisfaction to your clients to
24 have the Democratic Party go through all that,
25 but that isn't, in and of itself, something that

1 stops the finalization of the ballot by the
2 Secretary of State.

3 So what authority do I have to do that?

4 MR. AKEEL: Well, a couple of things,
5 Your Honor.

6 First, we learned in law school about
7 when a claim is ripe -- when a claim is ripe.
8 Right now the wrong that occurred is by MDP, and
9 that wrong is ripe for us to address here.

10 THE COURT: Okay. My question is:
11 What if I agree with you that that wrong is ripe
12 and that there was a wrong? How does that
13 ultimately get to me having authority -- again,
14 apart from jurisdiction, and let's just assume
15 for purposes of this discussion that I have
16 jurisdiction. I'm not saying I do. Just for
17 purposes of this question.

18 How does that get to your ultimate
19 request for relief, which is to stop the
20 Secretary of State from finalizing the ballot?

21 MR. AKEEL: If we have a ruling today
22 that's in our favor, it puts the Secretary of
23 State on notice that there is an issue here,
24 that there is an issue of irregularities
25 regarding the two candidates that would be put

1 up for nomination. The Secretary of State would
2 now be on notice.

3 As far as the Secretary of State knows
4 right now is that the convention went as
5 planned, everything was approved, and now they
6 have the names for submission.

7 You grant that order, stay, the
8 Secretary of State is on notice today that there
9 is possible irregularities, that there is an
10 appeal process pending. And so this is one step
11 here.

12 Your Honor, I can also brief that
13 issue. I have been given some citation here
14 that the Secretary of State must file a notice
15 of transfer under MCR 2.2228 and the Court can
16 transfer it under MCR 2.2227.

17 I would have to brief this matter, but
18 the pending issue right now before us is the
19 irregularities by MDP and the request for an
20 expedited appeal to be able to determine who
21 should be the proper names listed on the ballot
22 for the Secretary of State to print on the
23 ballot.

24 THE COURT: So is all of that to say
25 that you are conceding that I do not have the

1 authority to order the Secretary of State to not
2 finalize the ballot today?

3 MR. AKEEL: Your Honor, I have to brief
4 that issue. We'd have to brief it.

5 THE COURT: Well, you have asked for
6 that relief in your motion.

7 MR. AKEEL: This just came up. This
8 is -- it just came up right now. I know.

9 THE COURT: Well, Ms. Meingast raised
10 the court of claims jurisdiction, but in my mind
11 it didn't just come up because when I read your
12 complaint and the emergency motion, the first
13 question that came to my mind is how are these
14 two things related.

15 In other words, granting you relief on
16 the one hand against the Democratic Party and
17 its chairperson, how does that get you to the
18 next step you have asked me to take, which is to
19 restrain the Secretary of State from finalizing
20 the ballot?

21 So I can tell you right now it was
22 forefront in my mind long before -- I haven't
23 even begun to talk about the court of claims
24 jurisdiction yet. I think that's perhaps what
25 your client just referenced to you is the

1 issue -- and I'll look at the court rule, but
2 I'm assuming she's referencing the issue of
3 transferring a case from the circuit court to
4 the court of claims. So we haven't even begun
5 to scratch that surface.

6 For purposes of this discussion, as I
7 just said a few moments ago, I am saying assume
8 that Ms. Meingast never brought it up and I
9 never thought of -- not that I didn't, but never
10 thought of the jurisdiction issue.

11 How do I have authority to do what you
12 are ultimately asking me to do, and that is to
13 stop the Secretary of State from finalizing the
14 ballot today so that there will be time for
15 whatever action I might grant you on the other
16 side against the Democratic Party?

17 MR. AKEEL: I understand, Your Honor.

18 If a state actor, the government, is on
19 notice -- on notice of a constitutional
20 violation by an order issued in this court
21 indicating that the there is a likelihood to
22 succeed, that there are irregularities in the
23 process, that a review is to be expedited and
24 that it could be outcome-determinative where
25 Plaintiff Arraf would be one of the nominees --

1 and that's one of the standards that we have to
2 prove -- is there a likelihood to succeed here?

3 If we can prove that and it is
4 determined by the Court and there is an order
5 and the Secretary of State is on notice of an
6 order that there is a likelihood to succeed and
7 that's why injunctive relief was granted,
8 Your Honor, I think we would then have -- we can
9 have another -- we would be able to make a
10 filing, if need be, at the court of claims or at
11 least the Secretary of State would be on notice.

12 THE COURT: Okay.

13 MR. AKEEL: That's what I'm saying.

14 THE COURT: All right. Fair --

15 MR. AKEEL: I'm not conceding there is
16 no jurisdiction. I'm saying there is still this
17 step here before getting to the next step and
18 the next step, you know, to the Secretary of
19 State -- the Secretary of State would benefit
20 from the outcome or determination by Your Honor
21 regarding the irregularities that took place
22 within the MDP convention.

23 THE COURT: I can understand the
24 strategy. That still doesn't tell me that I
25 have authority to take that action.

1 And then if we move it to even the next
2 level, which is the issue of who has
3 jurisdiction -- which court has jurisdiction
4 over Ms. Benson as the Secretary of State, it
5 would appear by the reference that was just made
6 to MCR 2.22 -- it's actually MCR 2.223, which
7 would be change of venue, venue improper.

8 Venue and jurisdiction is not exactly
9 the same thing, but in any event it sounds like
10 you may be telling me that you don't have any
11 authority at this point that I could order the
12 Secretary of State to not finalize the ballot
13 today. My ruling with regard to the other part
14 of the case, the rest of the relief requested,
15 may have some impact as to what the Secretary of
16 State does either voluntarily or because of you
17 going to some court to ask for some relief.

18 MR. AKEEL: That's correct, Your Honor.

19 THE COURT: Okay.

20 MS. ARRAF: Your Honor. May I?

21 THE COURT: Up to your counsel. I
22 don't know.

23 MR. ELDRIDGE: Your Honor, I object.
24 She's not counsel of record. She's a party. If
25 she's going to testify, she needs to be sworn in

1 and be subject to cross-examination.

2 THE COURT: We'll let her confer with
3 her attorney and then take it from there.

4 Mr. Akeel, go ahead, sir.

5 MR. AKEEL: Your Honor, if relief is
6 granted this morning we have time to be able to
7 do what we need to do with the court of claims,
8 if that need be, from a practical aspect.

9 The big hurdle right now is to
10 demonstrate, at least from the MDP perspective,
11 that irregularities did occur and Plaintiff
12 Arraf has a likelihood to succeed.

13 THE COURT: All right. Let me ask you
14 another question, Mr. Akeel. This is with all
15 due respect to you and is not meant to be
16 anything other than that.

17 You are here, as I just referenced,
18 asking for equitable relief. Why wait so long?
19 This case -- the vote was taken on what date --
20 August 24th; is that correct?

21 MR. AKEEL: Your Honor, yeah.

22 THE COURT: And the motion was filed
23 yesterday. Obviously I acted as fast as I could
24 in responding to your emergency motion yesterday
25 afternoon in spite of what I can assure you was

1 an overloaded docket all day long.

2 MR. AKEEL: I was here. I saw it.

3 THE COURT: Okay. And then pulled
4 together this hearing this morning. But here we
5 are on the day that the Secretary of State, as I
6 understand it, is set to finalize the ballot and
7 I grant you that in the legal world and putting
8 together briefs, arguments, exhibits and so
9 forth, perhaps a week or two is not a lot of
10 time, but it was filed literally at the final
11 hour.

12 So why wait? Why did you wait so long
13 to file?

14 MR. AKEEL: Well, Your Honor, a couple
15 of things. There is a practical aspect. I'm
16 not going to go into the details, but when you
17 are dealing in the area of election law, which a
18 lot of people get conflicted out, I guess, and
19 are not able to take the case for different
20 reasons.

21 We were retained -- and I'm not going
22 to go into that, but we were retained a couple
23 of days ago. In order for us to be able to look
24 at this, we had to look at the facts and then we
25 had to consult with the people involved to

1 determine, and that's when we made the decision
2 that definitely, you know, we support with what
3 -- with the wrongs that occurred and so we made
4 our filing. So it wasn't like we had this thing
5 for a week and we were looking at it.

6 THE COURT: Again, this isn't any --

7 MR. AKEEL: No, no, I know.

8 THE COURT: -- any disrespect to you.

9 MR. AKEEL: No.

10 THE COURT: The reason I ask the
11 question and one of the things I look at is when
12 you are looking for equitable relief, but you
13 don't put yourself and the Court and the other
14 parties in the position to have an opportunity
15 to fully evaluate that, I wouldn't say it's
16 unclean hands, but it is -- there were some
17 things that perhaps could have been done to make
18 it such that you would have it more likely that
19 a Court might consider relief and other options
20 that may have been available if there were more
21 days built in before the Secretary of State was
22 scheduled to act.

23 That also includes with regard to
24 providing notice. I'm somewhat at a loss as to
25 why this was originally intended to be done

1 without notice to the other side.

2 I think you have commented to the
3 extent you probably are able to comment, so I
4 appreciate that.

5 MR. AKEEL: Yes, Your Honor. And, you
6 know, let's say -- even assuming that maybe the
7 filing could have been made the next day or --
8 that does not erase the wrongs that occurred in
9 this. It's going to be -- it's capable of
10 repetition yet awaiting review.

11 It's going to happen -- the reason why
12 and the way how the Board of Regents runs --
13 Michigan State, Wayne State -- is it's
14 staggered. Every two years you have two seats
15 open. So if you have the union backing two
16 people on a unity slate and you get all the
17 members there, they will always, always
18 essentially hijack the process -- essentially.

19 I'm just talking the process itself.
20 It is essentially always to have the two chosen
21 people that will be in the unity slate voting
22 and the members will vote for them at the
23 expense of people like Plaintiff Huwaida Arraf
24 or anyone who wants the minority point of view.

25 That's the reason why the slate voting

1 is there to dilute the power of the unity slate
2 to allow people that are not part of a unity or
3 part of a union an opportunity to also serve the
4 people.

5 And this is something that's going to
6 happen -- it hasn't been called out before, but
7 this is an issue I recognize and it is an issue
8 we are seeing here.

9 You saw the unity slate advertisements
10 being run. Just vote for those two, vote for
11 those two. They'll get the automatic votes at
12 the expense of people like Plaintiff Huwaida.

13 If you go by a majority vote, you'll
14 always lose. You go by the slate voting, they
15 have a chance. This is why it is an issue of
16 public concern that will advance the interest of
17 citizens. It is not just something that's
18 peculiar and only unique to Plaintiff Arraf. It
19 will happen to the next candidate unless this
20 issue is addressed.

21 THE COURT: All right. Thank you,
22 Mr. Akeel. Do you want to present your witness
23 now?

24 I guess I'll turn to Mr. Eldridge and
25 Ms. Meingast as well.

1 Do the parties prefer that there be
2 argument on the other side and then the issue of
3 presenting the witness?

4 MR. ELDRIDGE: If I may.

5 THE COURT: Yes, Mr. Eldridge.

6 MR. ELDRIDGE: I'll be heard on the
7 merits in the briefing before any witnesses are
8 called.

9 THE COURT: Any objection to that,
10 Mr. Akeel?

11 MR. AKEEL: No objection, Your Honor.

12 THE COURT: Anything else you wanted to
13 touch upon before you step away from the podium,
14 Mr. Akeel?

15 MR. AKEEL: Yes. Just if I can reply
16 to whatever he brings up briefly.

17 THE COURT: Absolutely. You'll have an
18 opportunity.

19 MR. AKEEL: Thank you.

20 THE COURT: Mr. Eldridge, when you're
21 ready, sir.

22 MR. ELDRIDGE: Good morning,
23 Your Honor.

24 May the record reflect Scott Eldridge
25 on behalf of the Defendants Michigan Democratic

1 Party and Lavora Barnes.

2 We, of course, don't represent
3 Secretary of State in this matter, but we have
4 an interest in the outcome of this case
5 including the prayer for relief that's being
6 requested, even as it relates to the Secretary
7 of State.

8 This Court undoubtedly does not have
9 jurisdiction over the Secretary of State.
10 Exclusive jurisdiction for claims against the
11 Secretary of State lies in the court of claims.
12 I don't think there is any reasonable dispute
13 about that. At the end of the day this Court
14 has no ability to enter an order granting the
15 ultimate relief that Plaintiffs are seeking from
16 you.

17 When I read the motion yesterday for
18 the first time, the prayer for relief really
19 jumped out at me, Your Honor, similar to the way
20 it jumped out at you. Not only because of the
21 request to order the Secretary of State who is
22 not a proper party to this case, not subject to
23 this Court's jurisdiction, but also because of
24 the prayer for relief against Michigan
25 Democratic Party and Lavora Barnes.

1 Plaintiffs are asking you to order my
2 clients to do three things -- order an
3 investigation or audit -- this is on page six of
4 the renewed motion for ex parte TRO. I'm not
5 sure what an investigation or audit would be,
6 but they want you to order one.

7 They want you to order a recount of the
8 votes from the MDP's fall convention from
9 August 24th.

10 And then they want you to order the MDP
11 to expedite the plaintiffs' internal appeal
12 within the MDP appellate process, which is
13 pending.

14 That's it. None of those three items
15 are items that are contemplated by the MDP's
16 bylaws. The MDP's bylaws don't contemplate
17 investigations or audits of convention
18 processes. It does not contemplate a recount.
19 And it does not contemplate an expedited appeal
20 of that internal appellate process.

21 Effectively, as we submitted in our
22 brief filed in morning and served on all counsel
23 of record, they are asking this Court to
24 effectively rewrite the MDP bylaws to allow
25 things that aren't there, which would be an

1 extraordinary intrusion by a court into the
2 MDP's First Amendment rights of association
3 under the Constitution of the United States. We
4 cited case law to that effect, Your Honor, in
5 our briefing.

6 Even if you were -- I think you alluded
7 to this. You said it directly. Even if you
8 were to grant all of that relief, which we don't
9 think you can and I have another point about
10 that in a minute, it would not ultimately lead
11 to the Secretary of State having to do anything
12 about it.

13 Under MCL 168.283, after the
14 fall convention on August 24th, the secretary of
15 the party was obligated to certify the names
16 that resulted from that convention to the
17 Secretary of State. And in that statute it says
18 that thereafter the Secretary of State shall
19 then send those names to the counties and place
20 it on the ballot.

21 That's what happened. They had to do
22 that within 24 hours. They did it by Monday,
23 August 26th, in a timely manner. That's the
24 process.

25 Prior to the MDP fulfilling its

1 statutory obligation to submit those names to
2 the Secretary of State, no objection was
3 lodged -- not by the plaintiffs at the
4 convention. Nobody else at the convention
5 lodged any objection about how the process
6 worked at the convention on August 24th.

7 It wasn't till after that that an
8 appeal internally was filed. While the
9 convention was going on there was every
10 opportunity for someone to lodge an objection
11 about how votes were being counted through a
12 motion under *Robert's Rules of Order*. Never
13 happened. Nobody launched an objection at all.

14 Instead, they waited until the last
15 hour and rushed to court to ask a Court that
16 doesn't have any jurisdiction over the Secretary
17 of State to halt the printing of the ballots.

18 Of course our client has an interest in
19 ensuring that the names it certified to the
20 Secretary of State properly under the statute
21 end up on the ballot. That's because the MDP
22 followed its processes on August 24th during the
23 convention.

24 This case is undoubtedly at its essence
25 about a dispute over the internal workings of

1 the Michigan Democratic Party. That's what the
2 complaint says. That's what the motion says.
3 The attachments to the complaint all are about
4 the internal workings of the MDP. That is
5 quintessentially a nonjusticiable political
6 question that courts stay out of. We cited to
7 ample case law, Michigan Supreme Court case law,
8 U.S. Supreme Court case law in our briefing
9 stating for that very proposition.

10 In the case titled *American Independent*
11 *Party of Michigan versus Secretary of State*,
12 397 Mich. 689 from 1976, the Michigan Supreme
13 Court in that case stayed out of an intraparty
14 dispute over which faction of a then emerging
15 party was the real new party called the American
16 Independent Party of Michigan.

17 The Court, quoting portions of a U.S.
18 Supreme Court decision from 1972 called *O'Brien*
19 *versus Brown* said, quote, the convention itself
20 is the proper forum for determining intraparty
21 disputes and the political processes should
22 function free from judicial supervision unless
23 infringement of constitutional rights is
24 alleged.

25 In this case the complaint has

1 declaratory counts for relief and a
2 breach-of-contract count.

3 There is not a single count or
4 allegation that a section of any provision of
5 the Michigan Election Code has been violated
6 that this Court could weigh in on or that any
7 constitutional right of any individual has been
8 violated such that this Court could weigh in on
9 it instead of purely asking you to either
10 rewrite the MDP bylaws or settle an intraparty
11 dispute over how conventions are supposed to
12 operate. That's simply not this Court's role.
13 For those reasons, the Court should stay out of
14 this nonjusticiable intraparty controversy.

15 Even if this Court were to grant the
16 relief that they are requesting, I'm not sure
17 what it ultimately means or entails. They are
18 not asking you to change the result. They are
19 asking you to order the MDP to conduct an audit
20 or an investigation or a recount or to expedite
21 an appeal. None of that is going to impact what
22 the Secretary of State is obligated to do today
23 to finalize the names of those nominees.

24 And so we are here really for an
25 academic exercise at the end of the day, one

1 that's not going to change the end result.

2 In fact, Plaintiff herself acknowledged
3 it. Exhibit 1 of our briefing, a press release
4 that her campaign issued three days ago on
5 September 3rd says, quote, Arraf is not claiming
6 to have won.

7 She doesn't even think she's going to
8 win. Instead, she wants the so-called
9 irregularities and so-called errors in the
10 process to be examined to ensure the integrity
11 of the process. But she, even herself, said she
12 is not claiming to have actually won.

13 So I'm not sure what ultimately we are
14 doing here when the Court doesn't have
15 jurisdiction and they filed in the wrong court
16 for the Secretary of State. And at the end of
17 the day, any order that would be in favor of the
18 plaintiffs as they requested it will not
19 ultimately change the outcome.

20 Now, one point I should mention with
21 respect to this idea of the slate vote, what
22 Plaintiffs seem to misunderstand or misquote,
23 and even in mister -- I'm sorry -- the
24 gentleman's. Liano Sharon, who intends to
25 testify today -- his affidavit miscites the

1 actual voting rules, misquotes the actual voting
2 rules he claims to be an expert on.

3 I want to clarify and we did so in our
4 affidavit from the executive director of the
5 Michigan Democratic Party Christine Jensen.
6 It's Exhibit 2 to our briefing, Your Honor,
7 where she explains unequivocally that slate
8 voting is reserved only for internal party
9 positions, not political partisan positions that
10 go on the public ballot. She said that
11 unequivocally in her affidavit, but that's also
12 because the rules that govern voting within the
13 party say the same thing.

14 This is the part that Mr. Sharon left
15 out of his affidavit. If you look at Exhibit 3
16 of the Plaintiffs' submission, Your Honor -- I
17 think it is Exhibit 3 to their complaint. This
18 is a copy of the rules.

19 The definition of the rules -- I'm
20 sorry -- the definitions in the rules explain
21 what a slate vote is and explain it in subpart
22 2.5 on page one of Exhibit 3. 2.5 talks about
23 what slate voting is and it is entirely
24 consistent with Ms. Jensen's affidavit.

25 Quote, a voting method -- I'm sorry.

1 This is the definition: Quote, a voting method
2 for electing multiple-position offices in which
3 delegates vote for a group of candidates
4 appearing on one slate -- the parenthetical says
5 list -- out of several or the order of the
6 candidates on the slates is predetermined.

7 If you then go up to definition 2.1,
8 what is a multiple-position office which is
9 expressly referenced in the definition of slate
10 voting that I just mentioned, it says, quote, an
11 office for which more than one person is to be
12 elected. Examples are county or district
13 executive committee members, delegates or
14 alternates to the state central committee,
15 delegates or alternates to the Democratic
16 National Convention and democratic national
17 committee members, end quote.

18 Those are all internal positions. What
19 Counsel failed to explain is that at the
20 convention and leading up to the convention, the
21 MDP never recognizes slate and none of these
22 individuals were presented -- the three
23 candidates were not presented as a slate.

24 They all filed their petition paperwork
25 with the Secretary of State as individual

1 candidates. They were all nominated at the
2 convention on an individual basis. There was no
3 nomination at the convention of a slate. This
4 idea of a unity slate that's referenced in the
5 complaint is not one from the MDP nor recognized
6 from the MDP. That came from the ACLU-CIO --
7 I'm sorry.

8 The union put out the endorsement of
9 that unity slate. The AFL-CIO. Sorry,
10 Your Honor. The AFL-CIO's decision to use that
11 label publicly to endorse certain preferred
12 candidates of theirs that didn't include the
13 plaintiff, it was not a mechanism through the
14 MDP process and MDP was not obligated to then
15 treat it as a slate. It never would have.

16 And so this idea that she would have
17 preferred a slate vote occur is not one that
18 would have been required at all by the bylaws or
19 the rules of election from the MDP internal
20 papers.

21 As our affidavit from Christine Jensen
22 also confirms, she's not aware of slate voting
23 having ever been used for U of M regent
24 candidates. We are not aware of any such
25 circumstance.

1 Finally, Your Honor -- and I'll invite
2 questions to the extent you have any -- there is
3 a suggestion that somehow the plaintiff is
4 entitled to certain records from the MDP under
5 the Nonprofit Corporation Act. The MDP is not
6 an entity that's formed under the Michigan
7 Nonprofit Corporation Act. It's a political
8 party. That is a 527, recognized by the U.S.
9 Internal Revenue Service, and not incorporated
10 at all under the Nonprofit Corporation Act.

11 With that, Your Honor, I will invite
12 any questions that the Court may have.

13 THE COURT: All right. Mr. Eldridge, I
14 guess one of the questions I have, just so I can
15 clarify in my mind the idea of there being a
16 nonjusticiable issue here, your argument with
17 regard to the internal workings of the Michigan
18 Democratic Party, apart from this issue of
19 requesting emergency relief, injunctive relief
20 or restraining relief, is a dispute like this
21 ultimately something that can be the subject of
22 a lawsuit?

23 In other words, let's say we were not
24 here on an emergency basis; there wasn't a
25 request for a restraining order because of the

1 timing of the finalization of the ballot by the
2 Secretary of State. Would this lawsuit be able
3 to be a standalone claim -- in other words, to
4 come into court and ask that a Court grant the
5 type of relief requested here of addressing the
6 internal rules and whether they were followed
7 for any particular candidate?

8 The reason I ask -- and I'll let you
9 answer, but the reason I ask is because one of
10 the things Mr. Akeel has said is that, assuming
11 that their argument is correct that there was
12 some failure to follow the procedures, he argues
13 that this is something that could be repeated so
14 there is a reason for the Court to address it.

15 I want to take out of that question the
16 emergency nature of this or the restraining
17 order nature of the request, the one part of the
18 request for relief.

19 So is this or is this not the type of
20 claim that can be heard by this Court?

21 MR. ELDRIDGE: It is not, Your Honor.
22 It is purely a political question. When the
23 complaint rests solely on whether internal rules
24 are followed, that is -- under the case law that
25 we cited in our briefing and I recited to you

1 earlier is a nonjusticiable political question
2 that courts universally leave to the party to
3 sort out. Otherwise it becomes a First
4 Amendment intrusion into their right of
5 association.

6 THE COURT: Unless there is
7 infringement of a constitutional right.

8 MR. ELDRIDGE: Exactly right. I mean,
9 if there is a hook for you to opine on whether
10 the MDP is violating the election code, for
11 example, you can probably opine on that. I
12 don't know of any allegation here that they have
13 been accused of violating the election --

14 THE COURT: Or a constitutional --

15 MR. ELDRIDGE: That was my next point,
16 Your Honor. Or the Constitution -- state or
17 federal constitution. There is no allegation
18 anywhere in the complaint that any of those
19 things were violated.

20 The only allegations are she didn't
21 like the way the voting was administered and she
22 didn't like the outcome. Those are internal,
23 intraparty matters that courts stay out of.

24 So we don't believe -- if this had been
25 filed not on an emergency basis, not in the

1 context of requesting a preliminarily
2 injunction, we would still be having the same
3 discussion, from our point of view, that it is
4 not something for the courts to sort out.

5 Quite frankly, the Kalamazoo County
6 Circuit Court, just in June of this year,
7 agreed in a similar case. Judge Curtis J. Bell
8 issued an opinion and order in that case. It's
9 Case Number 2024-0026-CZ.

10 This was an internal fight among the
11 Kalamazoo County Republican Committee and other
12 members over the voting of delegates out of that
13 Republican Committee. Judge Bell reached the
14 exact same conclusion that I'm discussing now,
15 which is despite their claims that this is a
16 matter of contract, this is really, at its
17 essence, an intraparty political dispute that
18 needs to be sorted out within the party.

19 He declined to inject himself into that
20 process, so he dismissed the lawsuit in that
21 case. That just happened in June of this year.

22 THE COURT: It hasn't been raised by
23 Mr. Akeel, I don't think. Can you address
24 then for me the dissent opinion in the
25 *American Independent Party* case that you cite,

1 397 Mich. 689, 1976?

2 As I understand it from reading this
3 case, the majority opinion says what you say the
4 case says in your brief. I think you have
5 accurately cited it and you just recited to me
6 the reasons that you believe that this, even on
7 a nonemergency or nonrestraining order basis,
8 would not be a case that could be sustained here
9 in the circuit court in any event.

10 The majority opinion does support your
11 position on that. The dissenting opinion, in
12 essence -- this is a terrible oversimplification
13 of what Justice Levin said because he presents a
14 much more scholarly recitation of his position
15 on this, but essentially, to oversimplify, he
16 basically says that access to the ballot for
17 candidates is a fundamental right and therefore
18 does, in fact, touch upon a constitutional
19 issue. Then he goes on in more detail to
20 address that.

21 Do you have any comments with regard to
22 that?

23 MR. ELDRIDGE: Well, it is a dissent --

24 THE COURT: Not that I'm going to adopt
25 the dissension opinion.

1 MR. ELDRIDGE: One, it a dissent.

2 Here, the plaintiff had every opportunity to
3 become a candidate. She was there at the
4 convention. She was nominated. She was able to
5 object to the process if she wanted to. She
6 didn't.

7 She did not invoke any sort of
8 opportunity to halt whatever she thought was
9 going on that she didn't like at the convention.
10 And so her constitutional -- first of all, she
11 doesn't have a right to have won the candidacy.
12 She doesn't have that right in the Constitution.
13 She has a right to have the opportunity to be a
14 candidate and she was granted that opportunity.

15 I don't think she's alleging that she
16 wasn't. She just doesn't like how the process
17 was administered and she doesn't like how the
18 outcome resulted. She doesn't like the end
19 result. That is not a constitutional question.
20 The fact that she doesn't like the way the MDP
21 administered its own rules is not a
22 constitutional question. That's not a
23 constitutional violation.

24 I'm not sure what constitutional right
25 that's at issue that she believes was infringed.

1 She was provided the same opportunity as anybody
2 else to have votes cast for her and it didn't
3 work out.

4 That would be my initial response to
5 that, Your Honor, is simply it is not the case
6 that a constitutional right has been infringed
7 in this particular matter.

8 At the end of the day let's not forget
9 what they are asking for. They are asking only
10 for an investigation. They are asking for a
11 recount or they are asking for an expedited
12 appeal of the internal appellate process. She's
13 not asking you to order the MDP to change the
14 results, which, of course, it can't do.

15 THE COURT: Thank you, Mr. Eldridge.

16 MR. ELDRIDGE: Thank you.

17 THE COURT: Ms. Meingast, do you wish
18 to be heard?

19 MS. MEINGAST: Yes, Your Honor.

20 THE COURT: Go right ahead when you're
21 ready.

22 MS. MEINGAST: Good morning,
23 Your Honor.

24 First, I just want to sort of express
25 some objections or frustrations to our presence

1 here today. We learned of this lawsuit -- I
2 don't know -- early in the morning sometime or
3 before noon yesterday while we were in the
4 middle of doing our own emergency briefing.

5 The first time I saw a piece of paper
6 in this lawsuit was after 4:00 yesterday. I
7 didn't receive any pleadings from the
8 plaintiffs. We had no notice, no reach-out at
9 all from Plaintiffs' Counsel about this hearing,
10 this case.

11 I only received a copy of the complaint
12 as a courtesy from Mr. Eldridge last night after
13 hours. I believe that the Court attempted to
14 email us some pleadings; however, the emails
15 didn't come through.

16 So I'm just sort of pointing out that
17 we had very little notice of this hearing even.
18 I think we learned of the hearing after 4:00
19 yesterday as well.

20 THE COURT: That would be true because
21 that's when I set it.

22 MS. MEINGAST: That's when you set it,
23 okay. We didn't know that either.

24 I just wanted to place objections to
25 sort of the process -- and not to Your Honor's

1 process, but to how this sort of played out.

2 As the Court already has sort of
3 indicated and what I spoke to earlier before
4 Mr. Akeel's argument, this Court does not have
5 jurisdiction over the Secretary under the Court
6 of Claims Act. It is MCL 600.6419, subsection
7 1A.

8 You know, all claims for declaratory
9 and equitable relief belong in the court of
10 claims against a state agency or a state
11 officer, which she is. Injunctions are, of
12 course, equitable relief. The court of claims'
13 jurisdiction is exclusive. There are a million
14 cases that say that. So this Court simply does
15 not have any jurisdiction to enter an order
16 granting the type of relief the plaintiffs are
17 seeking in this case.

18 This Court does not need a motion from
19 me. This Court has a continuing obligation to
20 assess its jurisdiction. I think you can
21 dismiss the Secretary sua sponte. If the Court
22 disagrees, we can certainly follow up with a
23 motion, but I don't believe that you need one.

24 A suggestion that we have an obligation
25 to transfer this case to the court of claims

1 isn't correct. I don't need to transfer. The
2 court rule doesn't require a transfer. I could
3 transfer it, but we can also move to dismiss it.
4 That's typically our practice and that's what
5 I'm asking this Court to do today would be to
6 dismiss the Secretary of State under the Court
7 of Claims Act.

8 Even if this Court had jurisdiction, it
9 is certainly our position -- the Secretary's
10 position that the doctrine of laches prefers
11 any relief that would hold up the Secretary's
12 statutory duty to certify the names of all the
13 candidates for the November election for the
14 83 counties today. MCL 168.648 is the statute
15 that gives us this duty today. It is 60 days
16 before the election.

17 What that starts is -- this
18 certification to the 83 counties immediately
19 sort of begins the ballot-printing process for
20 the counties. They will immediately begin
21 preparations to do ballot proofs and make way
22 for printing. That needs to be done of all
23 ballots, especially for absent-voter ballots,
24 which have to be available by, I believe,
25 September 19.

1 So there is very little time.

2 Ballot-printing takes at least two weeks. And
3 the plaintiff -- the UM Regents candidate is a
4 state-wide office. So what they are asking for
5 is halting ballot-printing in all 83 counties.

6 The test for laches is unreasonable
7 delay and a prejudice to the Secretary. I
8 think, as this Court has already noted, the
9 convention took place on August 24th, but,
10 inexplicably, the lawsuit wasn't filed until
11 yesterday on the eve of this deadline.

12 I didn't hear anything that was sort of
13 a reasonable explanation for this delay from the
14 plaintiffs' counsel and we have undoubtedly --
15 the Secretary has been undoubtedly prejudiced by
16 the late filing, by this urging that somehow
17 ballot-printing be delayed in all 83 counties
18 for some unknown amount of time.

19 Also, given Mr. Eldridge's
20 presentation, I'm also confused why we are here
21 and why there is injunction if the relief sought
22 is not to actually swap out or switch names of
23 the candidates in place. So I am confounded as
24 to why there is any injunction necessary to
25 delay ballot-printing if the end result is not

1 to somehow change the Michigan Democratic
2 Party's nominations that were properly submitted
3 to the Secretary on August 26th.

4 So those are my comments, Your Honor.
5 I'm happy to answer questions if the Court has
6 any. I think it is all pretty straightforward

7 THE COURT: Thank you, Ms. Meingast.

8 MS. MEINGAST: Thank you.

9 THE COURT: Mr. Akeel, you may respond.

10 MR. AKEEL: Thank you.

11 Your Honor, just briefly regarding
12 the jurisdiction, the court of claims doesn't --
13 cannot have jurisdiction over the MDP, so we are
14 here with respect to the MDP. That's an issue.

15 When the appeal was filed by Plaintiff
16 Arraf, it's still not been decided and it's
17 September 6th. The matter was contested on
18 August 24. The MDP was on notice of that issue.
19 An appeal was filed. Still there has been no
20 resolution.

21 Yes, we are at September 6th. That's
22 because part of the delay of MDP not attending
23 to this matter immediately saying, okay, we'll
24 get to it. It's been maybe within 30 days.

25 What I meant by capable of repetition

1 yet evading review, I didn't mean it in the
2 doctrine within respective -- in the courts.
3 What I meant is with the intraparty -- inside
4 the MDP, if a person is trying to exhaust her
5 appeal rights, but they are not -- but it is
6 going to be mooted out --

7 THE COURT: There is not enough time.

8 MR. AKEEL: Right. That's what I mean.
9 It will happen every two years. For a candidate
10 to try to contest this, they are never going to
11 be heard.

12 Now, we are not going into justiciable
13 arguments here or constitutional claims here.
14 We are here because the courts have recognized
15 that the bylaws are enforceable contracts. We
16 are not going into -- we are going and the
17 courts have recognized that bylaws are
18 enforceable contracts, and we are here to
19 enforce the bylaws. We filed the declaratory
20 relief, declaratory judgment and one of the
21 things that we are stating is that MDP is not
22 following its own bylaws for the reasons I
23 already stated.

24 Your Honor, one other thing that's
25 noticeably absent from everything that's been

1 addressed here and that's really critical here
2 and that is the credential argument, there is no
3 question that that's an issue. It was announced
4 on the floor and it is undisputed that there was
5 1,248 eligible to vote, but when the votes came
6 out, 1,422. There was a difference of 174 in
7 there.

8 If you look at the difference between
9 the votes that Diggs got, which is 2424, and
10 Huwaida, which is 2313, it's 111. That's more
11 than enough that definitely -- if we can look at
12 the actual credentialed folks that voted and
13 what is the outcome, it could sway that, in
14 fact, Plaintiff Huwaida would be the other
15 nominee based on the numbers alone.

16 Right after the voting announcements
17 were made, the whole crowd was yelling "show us
18 the math." The entire auditorium -- we have
19 pictures here -- was filled with people wearing
20 yellow shirts with "Huwaida."

21 It was very confusing. When they say
22 no one lodged objections, the whole place went
23 in an uproar saying "show the math, show the
24 math."

25 It stunned everybody regarding the

1 outcome, and an immediate objection was made by
2 Plaintiff Huwaida. Emails were sent that night.
3 Her attempts to keep this in the party, try to
4 resolve it, let's look at the math, it was going
5 unheard. That led to the matter being
6 escalated.

7 So, Your Honor, without any more
8 questions, I would like to present my first
9 witness.

10 THE COURT: Do you agree, Mr. Akeel,
11 with Mr. Eldridge that the MDP is not
12 incorporated under the nonprofit incorporation
13 statutes?

14 I know that was originally part of your
15 argument as to the contract and the obligations
16 that the MDP has, but Mr. Eldridge is
17 representing that's not the case. There is
18 simply a designation for purposes of IRS
19 purposes -- a 527, I think he said -- a 527
20 corporation.

21 MR. AKEEL: Your Honor, he's making
22 that representation. I would need to look at
23 that specifically. When it's in the context of
24 IRS, I don't know.

25 THE COURT: Forget about the IRS. I

1 guess let's stick to the first part. That is
2 you represented and used as one of your bases to
3 meet the elements of getting preliminary
4 injunctive relief that they are bound to the
5 members of the entity, they are bound by the
6 statutes that apply to a nonprofit corporation.
7 That was your allegation initially.

8 MR. AKEEL: Right.

9 THE COURT: Is that because you are
10 alleging they are a nonprofit corporation?

11 MR. AKEEL: I would be surprised if
12 it's a for-profit, if it's there to make money.

13 THE COURT: There is a difference in
14 terms of incorporating under those rules; right?

15 MR. AKEEL: Right. Right.

16 THE COURT: Okay. With regard to --
17 again, I'll ask you the same question I asked
18 Mr. Eldridge. If you take out of this the fact
19 that we are here today talking about something
20 that is supposed to happen by the Secretary of
21 State, I guess by the end of the day today, and
22 a request for preliminarily injunction and this
23 lawsuit had been filed a while ago with plenty
24 of time for everybody to make their arguments,
25 take discovery, do whatever they wanted to do,

1 is this a cause of action that can be sustained
2 in the courts given what was said by the court
3 in the *American Independent Party* case that was
4 cited by Defendant MDP. The *American*
5 *Independent Party of Michigan versus the*
6 *Secretary of State*, that's the case cite of
7 397 Mich. 689, a 1976 case.

8 I know you saw that it was in their
9 brief and they cite the comments by the
10 U.S. Supreme Court with regard to these internal
11 workings of the party not being subject to court
12 intervention.

13 MR. AKEEL: Your Honor, I'm aware of
14 that doctrine. Courts stay away from intraparty
15 matters, especially when it rises to
16 constitutional allegations. We are not talking
17 about constitutional allegations here. We are
18 talking about a breach of contract, breach of
19 bylaws.

20 THE COURT: I think it said unless it
21 touches upon constitutional issues and election
22 law -- like, for example, a direct violation of
23 the state election law.

24 MR. AKEEL: Right. We are not alleging
25 that. We are alleging breach of contract,

1 breach of the bylaws. And the parties -- there
2 is a public interest to ensure that they can
3 freely contract and to ensure that the parties
4 comply with the contract.

5 What we are saying -- I have cited the
6 law. It's a matter of contract here and the
7 bylaws were violated and Plaintiff Arraf has the
8 right to ensure that those provisions are
9 complied with.

10 After today, the irreparable harm will
11 be there. I'm just stating, Your Honor, I'm
12 focusing on the breach of contract with respect
13 to the bylaws. The bylaws were very clear how
14 the voting is to take place. I indicated how
15 there were irregularities and that's why I'm
16 going to have our witness to demonstrate how the
17 voting was irregular and if it was done
18 consistent with the bylaws that one of the new
19 seats for nomination would be for Plaintiff
20 Arraf.

21 THE COURT: All right. Mr. Akeel, is
22 there anything further you want me to know
23 before you present your witness?

24 MR. AKEEL: No, Your Honor.

25 THE COURT: Okay. Mr. Eldridge.

1 MR. ELDRIDGE: Thank you, Your Honor.

2 At this point after hearing the
3 exchanges this morning, we now object to
4 presentation of any kind of witnesses that are
5 going to be here to testify about what happened
6 or what they believe should have happened at the
7 convention.

8 If this Court is going to rule that the
9 Secretary of State should not be here and there
10 is no jurisdiction to order the Secretary of
11 State here and that there is no justiciable
12 controversy here because this is an intraparty
13 dispute, then listening to witnesses talk about
14 what happened at the convention seems like a
15 waste of time and seems like an exercise in
16 futility.

17 This idea that we are here about a
18 contract -- and what I heard Mr. Akeel say is
19 that there is no constitutional allegation.
20 There is no allegation that a constitutional
21 right has been violated. There is no allegation
22 that statutory rights have been violated.

23 Instead, they are simply saying this is
24 a matter of contract. The cases they rely upon
25 in their briefing, Your Honor, for that

1 proposition, those are cases involving
2 homeowners association disputes, not an
3 intrapolitical party dispute, which clearly
4 under our Supreme Court binding case law is a
5 nonjusticiable controversy.

6 Unless the Court is going to somehow
7 conclude that this is a justiciable controversy
8 in which it can weigh -- into which it can weigh
9 or that somehow it is going to be able to order
10 the Secretary of State to do something, it seems
11 to us that listening to witnesses testify is an
12 exercise in futility.

13 THE COURT: Mr. Akeel.

14 MR. AKEEL: Yes. If that position is
15 adopted, Your Honor, an entire body of case law
16 regarding bylaws and enforcement of bylaws will
17 be eradicated.

18 We are here because bylaws were
19 violated, and the testimony will establish that
20 if the bylaws were followed that Plaintiff Arraf
21 would have one of the seats for the nomination
22 at Board of Regents for the University of
23 Michigan.

24 I mean, the members are paying members.
25 There are bylaws that are there for a reason.

1 The only way to enforce the bylaws is to come to
2 court, and this is the proper court of
3 jurisdiction. This is where the events took
4 place.

5 There is no remedy right now or any
6 relief for Plaintiff Arraf to seek other than
7 just wait for 30 more days, and it will be a
8 foregone conclusion.

9 We are here to establish that there is
10 a likelihood to succeed to have an injunction
11 issued that, in fact, the bylaws were violated,
12 the wrong voting method was used, improper
13 people of credentials were applied.

14 If those simple issues are addressed,
15 which could be done within an hour, two hours
16 by the party, it can demonstrate that
17 Plaintiff Arraf would be one of the members to
18 be nominated and would be on the ballot.

19 It's not that -- it's not -- I have
20 cited the law. It's not something, you know, to
21 try to ignore, to completely escape
22 accountability, to entice and induce members to
23 join and to publish these bylaws. They are
24 there for a reason -- to be followed, and, if
25 not, to be enforced. And the Court here serves

1 as a check and balance to ensure that the bylaws
2 are enforced.

3 THE COURT: Is one of the cases you
4 cited specifically addressing the issue of a
5 party that rules within a political party?

6 MR. AKEEL: Yeah. *Hillsdale County*
7 *Republican Executive Committee versus Daren*
8 *Wiseley*. It's an opinion ordered for the
9 1st Circuit of the County of Hillsdale. It was
10 issued October 5, 2023.

11 Also cited is *Colin Upton*, 313 Mich.
12 App. 243. Bylaws constitute a binding
13 contractual agreement between an entity and
14 members.

15 Also *Kauffman versus Chicago*, 187 Mich.
16 App. 284, stating that the constitution, rules
17 and bylaws of the issue -- of an entity at issue
18 constitutes a contract by all members of the
19 entity with each other and with the entity
20 itself.

21 THE COURT: I'm aware that those are
22 cited in your brief. They are actually on page
23 two of your brief.

24 My question is which of those addresses
25 political party intraparty rules. Are there any

1 Michigan cases that directly address that?

2 MR. AKEEL: Yeah. I'll get the
3 opinion, the *Hillsdale County Executive*
4 *Committee versus Daren Wiseley*.

5 MR. ELDRIDGE: Your Honor -- that's
6 cited in your briefing, but I don't believe it
7 is attached. I have not seen the actual order.
8 I'm not sure what it says.

9 MR. AKEEL: Your Honor, *Pego versus*
10 *Karamo*, a recently decided case, 24-00658 --

11 THE COURT: Out of what jurisdiction?

12 MR. AKEEL: 17th Circuit Court, County
13 of Kent, Judge Joseph Rossi. It's *Malinda Pego*
14 *versus Kristina Karamo*.

15 THE COURT: Are you reference -- I'm
16 sorry, Mr. Akeel. I didn't mean to cut you off.

17 MR. AKEEL: I'm sorry.

18 THE COURT: Are you referencing a
19 circuit court opinion?

20 MR. AKEEL: Yes.

21 THE COURT: Okay. Are there any Court
22 of Appeals or Supreme Court opinions in Michigan
23 that address that issue with regard to a
24 party -- a political party?

25 MR. AKEEL: I think it was -- that case

1 is up on appeal, the case that I cited.

2 THE COURT: All right. The Kent County
3 case?

4 MR. AKEEL: Yes.

5 THE LAW CLERK: Can I have the name of
6 the case again?

7 MR. AKEEL: Sure. Malinda Pego, et al.
8 versus Kristina Karamo, state of Michigan, Kent
9 County.

10 THE LAW CLERK: Thank you.

11 THE COURT: All right. Anything else
12 you want to add to that, Ms. Meingast or
13 Mr. Eldridge?

14 MS. MEINGAST: No, Your Honor.

15 MR. ELDRIDGE: Just, Your Honor, we are
16 not aware of any appellate court, published or
17 unpublished, that would support Plaintiffs'
18 position on that.

19 THE COURT: With regard to the argument
20 with regard to contracts?

21 MR. ELDRIDGE: Correct.

22 THE COURT: What I am going to -- first
23 of all, we'll take a short break. Without any
24 indication as to how I'm going to rule as to the
25 request for preliminarily injunction, I will at

1 this point allow some brief testimony that you
2 want to present, if for no other reason than I
3 anticipate there may be some appeal, perhaps, of
4 this case.

5 I can tell you where the Court of
6 Appeals is if you want to know how to get there.

7 MR. AKEEL: Why are you looking at me,
8 Judge?

9 THE COURT: Both sides. But I want to
10 make sure we have a full record certainly and
11 that I'm fully informed before I make a decision
12 on this.

13 We'll take just a few minutes. I don't
14 want to take long, just a few minutes. Then you
15 can present your witness, Mr. Akeel, for what
16 you consider to be the most pertinent parts of
17 the testimony, understanding that there has been
18 a declaration that was attached already to your
19 complaint. All right?

20 MR. AKEEL: All right, Your Honor.

21 Also, my client would like to testify
22 to a few matters that were raised here that
23 might aid the Court.

24 THE COURT: Why don't we do this -- on
25 the break, Mr. Akeel, if you'll confer with the

1 defense attorneys as to what that scope is, what
2 would be the purpose of that testimony, and
3 maybe we can -- the two sides can reach an
4 agreement preserving what Mr. Eldridge already
5 objected to and his reason for saying that we
6 should not hear any testimony today, but perhaps
7 as to the scope so that we are not going beyond
8 the most pertinent issues in terms of any
9 testimony you might present. Okay?

10 MR. ELDRIDGE: May I ask, do we have a
11 list of who is going to be testifying?

12 MR. AKEEL: Just two.

13 THE COURT: Go ahead, Mr. Akeel. I
14 think you indicated one person and now you are
15 indicating your client.

16 MR. AKEEL: Yes. Mr. Sharon and my
17 client.

18 THE COURT: All right.

19 MR. ELDRIDGE: We have the same
20 objection.

21 THE COURT: I understand. We'll take a
22 short break.

23 (Off the record from 10:37 a.m. to 11:02 a.m.)

24 THE COURT: Before we start with the
25 testimony, I do want to put something on the

1 record because it occurred to me that you all
2 may not be aware of this process that involves
3 an obligation on the part of the Court with
4 regard to election-related litigation.

5 Ms. Meingast referred earlier to a part
6 of this process where either her office or
7 someone related to or affiliated with either the
8 Attorney General's office or the Secretary of
9 State office had some contact from the Court --
10 or received an attempt, I guess was what you
11 referred to -- an attempt to send the complaint.

12 Just so everyone is aware and to, I
13 guess, dispel any possible thoughts that there
14 was some contact between my office and either a
15 party in this case or the Attorney General's
16 office with regard to providing documents or
17 something else in terms of unilateral contact
18 between the Court and a party or a party's
19 counsel, I want to make it clear that that did
20 not happen.

21 What happened was that, again -- and
22 this may be the part that parties are not aware
23 of, but under the Michigan Supreme Court rules
24 and the State Court Administrative Office's
25 rules, all courts in the state are obligated to

1 do certain things when they receive -- if the
2 Court receives an election-related lawsuit.
3 Every year we get the same memo from the State
4 Court Administrative Office. This year is no
5 exception.

6 On July 30th, 2024, the State Court
7 Administrator, Thomas Boyd, sent through the
8 election-related reminder with the
9 administrative rule and the Supreme Court's
10 requirements regarding what we must do upon
11 receipt of any election-related litigation, and
12 that includes sending both summaries and/or
13 pleadings themselves, but certainly summaries of
14 the case, the issues in the case, the case
15 number, copies of any orders entered in the
16 case, et cetera.

17 There's a whole list of things or
18 actually two sets of notifications that are
19 required to different entities, multiple
20 entities. And so what the court did was comply
21 with that mandate by the Michigan Supreme Court
22 and the state court administrator, and I believe
23 that's how Ms. Meingast's office received an
24 attempt to send them some information.

25 So it wasn't anything that I did in

1 terms of trying to reach out to parties or do
2 anything directly in terms of engaging parties
3 that would be involved in this case. It was
4 simply following the listed entities or
5 individuals that need to be notified in
6 providing the respective information required to
7 be provided.

8 And that actually, in this case,
9 happened on two levels. The court clerk, the
10 county clerk's office sent some notices, and
11 the 30th Circuit Court's administrator's
12 office -- our administrator sent some
13 notifications as well. And, yes, my office was
14 involved in providing some of the information
15 and summaries, but that's really it.

16 Anyway, if there are any questions
17 about that, I'm happy to entertain those if
18 anybody wants to make a further record about
19 that.

20 Anything, Mr. Akeel, that you have
21 questions about or want to comment with regard
22 to that?

23 MR. AKEEL: No, Your Honor.

24 THE COURT: Mr. Eldridge?

25 MR. ELDRIDGE: No, Your Honor.

1 THE COURT: Ms. Meingast or Mr. Grill?

2 MS. MEINGAST: No, Your Honor.

3 THE COURT: Okay. With that, you can
4 go ahead, Mr. Akeel, with calling your witness,
5 sir.

6 MR. AKEEL: Your Honor, I would like to
7 call the first witness, Mr. Liano Sharon.

8 THE COURT: Please raise your right
9 hand for me.

10 Do you swear or affirm to tell the
11 truth, the whole truth, and nothing but the
12 truth?

13 MR. SHARON: I do.

14 THE COURT: Please be seated. You can
15 adjust that microphone wherever it's comfortable
16 for you. It moves around on the desk. It will
17 also bend in different directions. As long as
18 we can hear you, that's what counts.

19 THE WITNESS: Very good.

20 THE COURT: If you would, state your
21 full name and spell both the first and last
22 name, please.

23 THE WITNESS: My name is Liano Sharon.
24 The first name is L-i-a-n-o, last name
25 S-h-a-r-o-n.

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LIANO SHARON,

(At 11:08 a.m., having been called by the Plaintiffs
and sworn in by the Court, testified as follows:)

DIRECT EXAMINATION

BY MR. AKEEL:

Q. Good morning, Mr. Sharon.

A. Good morning.

Q. Mr. Sharon, what's your highest level of degree?

A. I have a bachelor's degree in mathematics and
I've completed the coursework for a master's in
curriculum and instruction.

Q. What's your current profession?

A. Currently I am an international business
consultant and cross-cultural communications
specialist.

Q. Okay. Are you in any way affiliated with the
Michigan Democratic Party?

A. I have been a member of the party since
December 2016 and very active. I can list in
detail, if you would like, the different
positions that I hold.

MR. AKEEL: Your Honor, may I approach
the witness?

THE COURT: You may. You can do it
right through here, Mr. Akeel, or walk around,

1 whatever you wish.

2 MR. AKEEL: Sounds good. Thank you.

3 BY MR. AKEEL:

4 Q. If you could, please go to the third page.

5 A. Third page. Yes, sir.

6 Q. Is that your notarized signature?

7 A. It is.

8 Q. Okay. If you can, go back to page one.

9 A. Yep.

10 Q. Okay. Just briefly, in paragraph four can you
11 summarize briefly your experience with the
12 Michigan Democratic Party?

13 A. I have been a member of the state central
14 committee since 2017, and I have continued to
15 serve on that committee. I have been there now
16 eight years. Four years on the MDP State
17 Central Committee Executive Committee, four
18 years on the State Central Committee Rules and
19 Bylaws Committee, four years on the Washtenaw
20 County Democratic Party Rules and Bylaws
21 Committee, two as cochair, six years as chair of
22 the Michigan Progressive Caucus Rules Committee,
23 and four years on the Democratic National
24 Committee.

25 Q. Okay. In paragraph five, you state that you

1 served in a subcommittee charge with a
2 line-by-line review of the DPV. What does that
3 mean?

4 A. So the DPV stands for directive on proportional
5 voting, and that was the document under which
6 the MDP conducted elections prior to 2018 when
7 we completely replaced it.

8 As the chair of the committee wrote at
9 the time, quote, this is a complete rewrite of
10 those rules of the DPV and we replaced them with
11 a new document called the rules for voting and
12 elections.

13 Q. If I could take you to paragraph eight --

14 A. Mm-hmm.

15 Q. -- you state -- can you explain to the Court
16 what is going on here? If you can, read it and
17 explain what's going on.

18 A. Sure. Paragraph eight, we made the rules for
19 voting and elections clear by defining each of
20 the key terms and explaining the elements of
21 each voting system we allowed. We made it
22 simple by eliminating all but two options for
23 running elections in the MDP, majority voting
24 and slate voting.

25 All changes recommended by the rules

1 committee, including replacing the DPV with the
2 RVE, were adopted by the party in 2018. Since
3 2018, there has been no other option for running
4 elections in the Michigan Democratic Party.

5 Q. Okay. Does that apply to elections as well for
6 the board of governor -- regents?

7 A. Absolutely. Any elections carried out by the
8 MDP, these are the rules that the MDP has
9 authorized for all party functions.

10 Q. Okay. I want to provide you an exhibit -- by
11 the way, this was Exhibit 8. It's already
12 admitted, so I'm just kind of going -- I'm going
13 to present Exhibit 3, which is part of the
14 verified complaint.

15 MR. AKEEL: May I approach the witness,
16 Your Honor?

17 THE COURT: You may.

18 THE WITNESS: Thank you.

19 BY MR. AKEEL:

20 Q. Can you please identify Exhibit 3?

21 A. Yeah. Exhibit 3 are the rules for voting and
22 elections in the Michigan Democratic Party.

23 Q. Did you participate in authoring these rules?

24 A. Absolutely.

25 Q. What's the purpose of these rules?

1 A. The purpose of these rules is to determine
2 specifically what voting systems are allowed in
3 the MDP and when they are applicable.

4 Q. Okay. Are these rules posted on the website?

5 A. Yes.

6 Q. Is there some significance to that?

7 A. Yeah. One of the other rules that we adopted in
8 2018 was Rule 2.5 of the bylaws, which says that
9 only the rules that are posted publicly on the
10 MDP website are valid rules. No other rules are
11 valid in the MDP.

12 Q. So the only rules that could be allowed during
13 the convention for the board of governors seat
14 was either majority or slate?

15 A. That's correct.

16 Q. Okay. I want to take you to provisions 2.4 and
17 2.5.

18 A. Mm-hmm.

19 Q. Those two provisions you helped author?

20 A. Yes.

21 Q. Okay. What's its intention in how it would be
22 applied, those two provisions?

23 A. Right. So the importance of distinguishing
24 single-position offices from multiple-position
25 offices is that in a single-position office we

1 do not have the opportunity to give minorities
2 the ability to elect some portion of that power.
3 All power goes to one person in a
4 single-position office.

5 In a multiple-position office, we have
6 the opportunity to allow coalitions in the
7 minority within the party to elect some number
8 of members to boards, committees, et cetera, and
9 the intent of -- the intent of, I would say,
10 2.2, 2.1, 2.4, and 2.5 -- and, in fact, the
11 entire document -- is to ensure that we comply
12 with rules coming down from the national
13 committee actually that require us to give
14 minorities the ability to gain their own power.

15 And so, for example, you know, 2.2 is a
16 perfect explanation. It says what we are trying
17 to do with slate voting is to have proportional
18 representation, which is using an approved
19 election method for multiple-position offices
20 such that a substantial minority within the
21 assembly has an opportunity to elect a
22 proportionate share of the delegates or members.

23 For example, 20 percent of an assembly
24 would have the opportunity to elect one out of
25 the five delegates. Okay?

1 So that's the purpose of proportional
2 voting is to ensure minorities have the
3 opportunity to win their own representation.
4 And that is a key concept throughout the
5 national and Michigan Democratic Party rules.
6 There are several different other rules that
7 indicate exactly that.

8 Q. And how does the slate voting method help --
9 first of all, when you say minorities, what do
10 you mean?

11 A. I mean coalitions in the minority.

12 Q. Okay.

13 A. Which is why I use the phrase. I don't mean
14 necessarily racial, ethnic, religious
15 minorities. Coalitions that come together, but
16 the coalition is a minority within the party.

17 Q. Okay. How does the slate voting help the
18 minorities to have representation?

19 A. Sure. It helps by recognizing that when we
20 have -- when we are electing people to a
21 multiple-position office like a board of
22 regents, because there are multiple people there
23 we can actually divide up the representation
24 between different factions in the party. And so
25 we want to represent different factions in the

1 party according to their -- according to their
2 numbers in the electorate.

3 Q. Okay. All right. I want to take you to
4 provision 6.4 of the same document --

5 A. Mm-hmm.

6 Q. -- Exhibit 3. Just generally, 6.4 titled slate
7 voting, what's being discussed here? Just a
8 summary.

9 A. So the 6.4 is giving the details of how to run a
10 slate voting election. Specifically 6.4.2 gives
11 the actual mathematical process that's required.

12 Q. Okay. Now, were you present at the convention
13 on October -- on August 24, 2024?

14 A. Yes, I was.

15 Q. Now, from your understanding and your experience
16 serving on the committees, did the convention
17 have multiple position openings?

18 A. Yes, they had several. All of the boards of
19 regents for universities were multiple-position
20 offices, but only the U of M Board of Regents
21 was contested. That was the only office for
22 which there were more than the number of
23 positions available -- more candidates than the
24 number of positions available running.

25 Q. Okay. And that applied for different

1 universities?

2 A. That applied for different universities,
3 absolutely. Like I said, those weren't
4 contested.

5 Q. Did you come to learn of the candidates who were
6 up for nomination for the Board of Regents
7 offices for the University of Michigan?

8 A. Yes. I was shown an advertisement, a placard
9 that said that the -- that listed all the
10 different candidates for those positions as the
11 unity slate.

12 MR. AKEEL: Okay. Your Honor, may I
13 approach the witness?

14 THE COURT: Yes.

15 BY MR. AKEEL:

16 Q. This is Exhibit 6 in the verified complaint. Is
17 this the document that you saw?

18 A. Yes, it is.

19 Q. Okay. Just on the bottom left where it says
20 "support the unity slate," from election lingo,
21 what does that mean?

22 A. Well, in election lingo that means that you have
23 a slate, like we talk about slate voting in 6.4.
24 These are, in fact, all of the position -- all
25 of the offices that are listed here are

1 multiple-position offices and so it would have
2 to be by slate voting.

3 Q. Okay. So here we have for the University of
4 Michigan two people who were presented together
5 and that's Denise Ilitch and Shauna Ryder-Diggs?

6 A. Correct.

7 Q. Okay. When you see that -- you said there were
8 two methods to be applied, either majority or
9 slate voting. And from your experience and the
10 intent of how the rules are to be applied based
11 on your authorship in it, which method should
12 have been used here?

13 A. Well, certainly the slate voting method. You
14 know, this is number one because it is a
15 multiple-position office. That's the
16 fundamental reason that you need slate voting is
17 because multiple-position offices are the only
18 opportunity that minorities have to win some
19 power without having a majority.

20 If you are trying to elect a
21 single-position office, you need a majority to
22 elect that office. If you have a
23 multiple-position office, you can have -- you
24 can have, for example, 60 percent of the
25 electorate and they get three positions out of

1 five, and 40 percent get two positions out of
2 five. You can't have that kind of division when
3 there is only one position in the office.

4 Q. Okay. Now, did you personally vote?

5 A. Yes.

6 Q. Okay. Based on your knowledge of how the rules
7 were applied, did the Michigan Democratic Party
8 tally the votes properly?

9 A. No, they did not tally the votes properly.

10 Q. Why not?

11 A. They tallied the votes as if they had run a
12 majority voting election, which is exclusively
13 in our rules for a single-position office when
14 they should have tallied the votes as if it was
15 a multiple-position office, which would have
16 used slate voting according to our rules.

17 Q. Okay. Had they tallied the votes properly under
18 2.5 of the rules for voting and election in
19 Michigan Democratic Party Exhibit 3, from your
20 understanding who would have won a nomination?

21 MR. ELDRIDGE: Object, Your Honor. I'm
22 going to object to the lack of foundation.

23 THE COURT: Mr. Akeel.

24 MR. AKEEL: Your Honor, I'll rephrase.

25 THE COURT: Okay.

1 BY MR. AKEEL:

2 Q. Had the tally of the vote -- had MDP tallied the
3 votes under the slate voting method, did you --
4 strike that.

5 Did you make any analysis in
6 determining had the MDP applied the slate voting
7 method who would have won a nomination?

8 A. Yeah. In fact, I wrote about it in an article
9 that I published. I went through all the math
10 and, yeah, in that circumstance my analysis
11 shows that if the votes -- if the voting totals
12 reported were accurate -- and we don't know that
13 because of the question with the credentialing,
14 but if the voting totals reported were accurate
15 then Huwaida would have won one seat and the
16 unity slate would have won one seat.

17 Q. Okay. The first document I gave you and I gave
18 to the Court --

19 A. Yes.

20 Q. -- has Exhibit 7.

21 A. Mm-hmm.

22 Q. Can you please go to page four?

23 A. Mm-hmm. Just a moment. Page four?

24 Q. Yes.

25 A. I might not have the same page numbering as you.

1 Which number are you looking for?

2 Q. Here. Yes, page four. You're on page six. I'm
3 sorry about my number -- one more.

4 A. No, the --

5 Q. Page four.

6 A. Yeah. Page four shows this.

7 Q. There you go.

8 A. Page four shows this.

9 Q. Is page four the article you discussed?

10 A. Oh, yes. I'm sorry.

11 Q. Yeah. Yeah. Okay. I just want to make sure.

12 This is the article that is titled *MDP Botches*

13 *U of M Regent Nomination*?

14 A. Yes, that's correct.

15 Q. Okay. You wrote that on August 28, 2024?

16 A. Yes.

17 Q. Let's go -- as part of your article, go to page
18 seven.

19 A. Okay.

20 Q. Right away where you hear and say in the middle,
21 "Here is the math."

22 A. Mm-hmm.

23 Q. Okay. Is this the calculations that you made --

24 A. Yes.

25 Q. -- which led to your conclusion that Huwaida

1 Arraf would have won one of the nominations?

2 A. That's correct.

3 Q. Okay. So if you go to page nine under -- after
4 you did your calculation with your mathematician
5 experience, what was the final result you
6 published?

7 A. The final result, unity slate one position,
8 Huwaida slate one position, total positions two.

9 Q. Okay. I don't know if the -- I think -- if we
10 go to -- back to seven.

11 A. Yep.

12 Q. And I don't want to bore the Court on this, but
13 it's important to go to the method of
14 calculation of the slate voting and how you
15 determined how Huwaida Arraf actually won one of
16 the seats. It starts on page seven.

17 A. Mm-hmm.

18 Q. It says under the slate voting tabulation the
19 process is a little bit more complicated, but
20 clearly explained. Can you try to explain this
21 to aid all of us?

22 A. Sure. I mean, the requirement -- the slate
23 voting calculation requires that you first
24 divide the total number of votes for all slates
25 and divide each slate -- each slate's total

1 votes by the total of number of votes for all
2 slates coming up with a decimal proportion, and
3 then you multiply that by two. It's a long
4 explanation why, but you multiply that by two.

5 Q. Are you on page eight now?

6 A. I'm page eight now.

7 Q. If you can, direct us to the numbers you are
8 looking at.

9 A. Okay. So I'm now on page eight where it says
10 unity slate 0.6936 times two, et cetera. That's
11 where we multiply by two. And then the whole
12 number portion of those resulting numbers -- the
13 whole number portion is the number of people
14 elected from each slate at this stage.

15 So the whole number portion of the
16 unity slate is one and the whole number portion
17 of the Huwaida slate is zero, but there is still
18 an unfilled position because only one position
19 has been filled so far. And then the rules
20 continue that if there are any unfilled
21 positions, which there are, the slate having the
22 largest fractional portion of the above results
23 shall receive the unfilled position.

24 The fractional portion of the unity
25 slate number was 0.3872. The fractional portion

1 of the Huwaida slate is 0.6128. 0.6128 is
2 larger than 0.3872; therefore, Huwaida would
3 have won the other position.

4 Q. Okay. That's had the slate voting method been
5 applied?

6 A. Correct.

7 Q. Okay. When you were at the -- when you use
8 these mathematical calculations, were you
9 relying on Exhibit 3, the rules for voting and
10 election in Michigan Democratic Party?

11 A. Yes. That's exactly right. Those are where I'm
12 pulling the quotes from the rules. Where I
13 reference 6.4.2, I'm just taking that directly
14 out of the rules for voting and elections.

15 Q. And those were the only ones that were posted on
16 the website --

17 A. Absolutely.

18 Q. -- before the convention?

19 A. Absolutely.

20 Q. And those were the only ones that could have
21 been used?

22 A. Absolutely.

23 Q. Okay. All right. When you were there, did you
24 observe any other irregularities -- you
25 personally?

1 A. Yeah. I observed a couple --

2 MR. ELDRIDGE: Objection, Your Honor.

3 THE COURT: Hold on a second.

4 Go ahead, Mr. Eldridge.

5 MR. ELDRIDGE: Object as to the form of
6 the question.

7 MR. AKEEL: My form -- I'm going into
8 getting his personal knowledge. I'm not -- it's
9 not leading. I don't know why --

10 MR. ELDRIDGE: I don't know what kind
11 of irregularities we are talking about.

12 MR. AKEEL: I'll rephrase.

13 THE COURT: Go ahead.

14 BY MR. AKEEL:

15 Q. Did you observe any what you believe were
16 violations of the rules for the voting and
17 elections for Michigan Democratic Party?

18 A. Yeah. I first noted that the electronic ballot
19 was not set up to be a slate voting ballot. So
20 I originally thought "what's going on here," but
21 then I realized that the way that we were
22 voting, it meant that you could extract the
23 information necessary to calculate the correct
24 slate voting result from the information that
25 they were gathering. So I figured it was

1 probably a cost-cutting measure or something
2 like that -- like the vendor had a higher price
3 for the slate voting, so they said that we'll
4 just calculate it. Okay.

5 But then also there was the issue of at
6 the State Central Committee meeting that was
7 called immediately after the convention, there
8 wasn't a quorum. You know, there were
9 literally, like, 20 people in a circle. There
10 is no way that can be a quorum because there are
11 over 200 people on the Michigan State Central
12 Committee, and a quorum is 50 percent. So there
13 is no way I could confuse about 20 people with a
14 hundred people.

15 Q. And why was the quorum necessary?

16 A. Because under the rules for the convention
17 passed by the Convention Rules Committee, we are
18 required to canvas and ratify -- the committee
19 is required to canvas and ratify the results.
20 There was no canvassing done. The chair read
21 out the results as they had been announced and
22 just asked for a vote.

23 MR. AKEEL: Your Honor, may I approach
24 the witness?

25 THE COURT: Yes.

1 BY MR. AKEEL:

2 Q. This is Exhibit 9 of the verified complaint. If
3 I can direct your attention to C2 where it says,
4 here the order of business shall be as follows:
5 Canvas and ratification of convention results.

6 A. Mm-hmm.

7 Q. Do you see that?

8 A. Yep.

9 Q. Is this what you were referring to?

10 A. Yes, exactly.

11 Q. Okay. One other matter I want to bring to your
12 attention. On B2A, it says the order of
13 business shall include the following, hearing a
14 report on a number of delegates. Do you see
15 that?

16 A. Yes.

17 Q. What does that mean?

18 A. That means that the convention -- that the
19 convention's credentials committee is required
20 to announce the number of people that have been
21 properly credentialed to vote in the election
22 prior to the vote.

23 Q. Okay. Were you present when that occurred?

24 A. Yes, I was present.

25 Q. Okay. Did you see any violations in that

1 process?

2 A. The only thing that I saw at the time was that
3 they announced 1,248 credentialed people. I did
4 not become aware until later that when they
5 released the data, which I understand is not the
6 raw data, but they released some data to the
7 campaign and that it contained the number 1,422.
8 So 174 more voters than had been announced in
9 the credentialing report.

10 Q. Okay. Is that something unusual?

11 A. That's very unusual. That effectively says that
12 they are stuffing the ballot boxes if that's
13 correct. If it is not an error and isn't
14 corrected, you know, they are bringing people to
15 vote who aren't credentialed to vote.

16 Q. Okay. You referenced something -- you mentioned
17 raw data versus other data.

18 A. Yeah.

19 Q. What's the difference, if you can explain?

20 A. Well, we have a rule in the Michigan Democratic
21 Party -- I believe it's 2.17 -- that says that
22 there are no secret ballots allowed in any of
23 the Michigan Democratic Party elections;
24 therefore, all the ballots, the actual raw
25 ballots are, in fact, required to be released to

1 the membership at least.

2 Q. Do you know as far as today if the raw data has
3 been released?

4 A. No. My understanding it has not been. We have
5 received data that they have claimed is the raw
6 data, but my understanding is that it bears
7 clear indications of being manipulated.

8 MR. AKEEL: Okay. Thank you,
9 Mr. Sharon. I have no further questions.

10 THE COURT: Thank you, Mr. Akeel.

11 Mr. Eldridge, go right ahead, sir.

12 MR. ELDRIDGE: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. ELDRIDGE:

15 Q. Good morning, sir.

16 A. Good morning.

17 Q. If I understand your testimony correctly, it
18 sounds like you would have preferred that the
19 convention utilize the slate voting method as
20 opposed to the majority voting method.

21 A. It's not a question of my preference. It's a
22 question of what the rules say.

23 Q. My question is: Do you have a preference they
24 would have used?

25 A. I have a preference for them following the

1 rules.

2 Q. Okay. Where in the voting rules of the MDP does
3 it say that candidates, to be delegates for --
4 I'm sorry -- candidates, to be regents of the
5 board at the University of Michigan, are to be
6 voted on by a slate vote?

7 A. Candidates for the University of regents (sic)
8 are multiple-position offices; therefore, under
9 2.5 they are required to be elected by slate
10 voting.

11 Q. Sir, where does it say in the rules that the
12 position for regent for University of Michigan
13 is a multi-position office?

14 A. It defines multiple-position offices as an
15 office for which more than one person is to be
16 elected. That was the case at this election.

17 Q. It does not identify though -- am I correct --

18 A. It says example --

19 Q. Hold on and let me finish the question.

20 It does not identify the position of
21 University of Michigan Board of Regents;
22 correct?

23 A. It doesn't specifically identify that; however,
24 it lists the examples given as examples. And we
25 understood at the time when we were writing this

1 that these were just examples, that any
2 multiple-position office as defined in the first
3 paragraph that this applies to.

4 Q. So you see the examples in that first paragraph
5 of section 2.1 of the rules; correct?

6 A. Mm-hmm. Yes. They are listed as examples, not
7 conclusively.

8 Q. Okay. All of the examples -- do you agree with
9 me? -- are internal party positions; correct?

10 A. Yes.

11 Q. Sir, do you know who Christine Jensen is?

12 A. I do.

13 Q. Who is Christine Jensen?

14 A. She is the executive director of the Michigan
15 Democratic Party.

16 Q. Sir, are you aware that Ms. Jensen signed a
17 declaration in this matter in support of the
18 defendants' briefing?

19 A. Yes.

20 Q. Have you had a chance to review it?

21 A. I have reviewed it briefly. I did not get to
22 read it through all the way. I read portions of
23 it.

24 MR. ELDRIDGE: Your Honor, may I
25 approach?

1 THE COURT: You may.

2 BY MR. ELDRIDGE:

3 Q. Sir, I have handed you what is a copy of
4 Ms. Jensen's affidavit -- or declaration, more
5 precisely in this matter.

6 A. Yes. Mm-hmm.

7 Q. I'm going to ask that you turn to paragraph five
8 of her declaration.

9 A. Sure. Mm-hmm.

10 Q. The first sentence there says, quote, the slate
11 voting procedures in the voting rules do not
12 apply to and have not, to the best of my
13 knowledge, ever been used by the MDP to
14 determine which candidates for partisan offices
15 will appear on a general election ballot, end
16 quote. Did I read that correctly?

17 A. Yes.

18 Q. Do you have any reason to disagree with her?

19 A. Yes.

20 Q. Tell me why.

21 A. First of all, because the slate voting
22 procedures are what's listed in the rules and
23 there are no other rules for electing
24 multiple-position offices in the Michigan
25 Democratic Party. The rules clearly explain

1 that a multiple-position office has to be
2 elected by slate voting.

3 So the fact that they have not done so
4 in the past is an indication of past
5 malfeasance, not -- not an exculpation of what's
6 going on here.

7 Q. Are you aware, sir, of any circumstance where if
8 MDP has used slate voting for candidates for
9 partisan offices that will appear on the general
10 election ballot?

11 A. I am aware of no other rule in the Michigan
12 Democratic Party that allows them any other
13 option. So, no, I am not aware of that
14 happening at all; however, my point is that I
15 have pointed this out to Chris Jensen on
16 multiple occasions that we are not following our
17 rules, and she has several times told me, well,
18 nobody cares about the rules except you --

19 Q. Well, but --

20 A. -- so --

21 Q. -- you are not aware of a single instance when
22 slate voting has been used for partisan
23 positions that end up on the general election
24 ballot; correct?

25 A. No, but I have objected to them not doing so in

1 the past.

2 Q. And the party leadership overruled you; correct?

3 A. The party leadership has not followed the rules.

4 Q. In your opinion?

5 A. In the opinion of the rules.

6 Q. So back to the rules. I want to ask you a
7 question about your affidavit. Back to the
8 rules --

9 A. Mm-hmm.

10 Q. -- you agree that in the rules for voting,
11 section 2.5, and the definition of slate voting,
12 it applies to multiple-position offices; right?

13 A. Correct.

14 Q. We agree on that?

15 A. Yes.

16 Q. And we also agree that section 2.1, the
17 definition of multiple-position offices, does
18 not identify any type of -- as an example, any
19 type of partisan position that will end up on
20 the general election ballot. Do you agree with
21 me on that?

22 A. I agree with you on that, yes.

23 Q. Now, you said that you understood and went into
24 the convention understanding that slate voting
25 would be utilized. Am I understanding that

1 correctly?

2 A. I thought that slate voting would be utilized
3 when I got there and I saw this. My
4 understanding is that slate voting needs to be
5 utilized in any multiple-position office, but it
6 has been the practice of the party not to do so.

7 So when I saw that they were
8 advertising like this, I said, okay, maybe
9 they'll do it --

10 MR. AKEEL: Let the record reflect the
11 witness was pointing to the exhibit of the
12 advertisement, and he raised it.

13 THE WITNESS: Yeah. See?

14 MR. ELDRIDGE: Thank you.

15 MR. AKEEL: Sorry.

16 BY MR. ELDRIDGE:

17 Q. So you had made up in your mind that slate
18 voting was going to occur on August 24th;
19 correct?

20 A. Once I saw this. Not until then.

21 Q. And you are talking about this advertisement?

22 A. Yeah.

23 Q. You agree this advertisement is issued by the
24 AFL-CIO; right?

25 A. Yes. But they must have agreed to it.

1 Q. Who is "they"?

2 A. Denise Ilitch and Shauna Ryder-Diggs.

3 Q. You're not suggesting this advertisement was the
4 product of anything that came from the MDP;
5 right?

6 A. I'm suggesting that this advertisement was a
7 product of what came out of their campaigns.

8 Q. Okay. But you agree --

9 A. And their campaigns are the ones who determine
10 who is on the slate.

11 Q. You agree with me that this advertisement that
12 we're talking about from the AFL-CIO --

13 A. Mm-hmm.

14 Q. Right? You see the AFL-CIO logo on it?

15 A. Sure.

16 Q. It did not come from the Michigan Democratic
17 Party; right?

18 A. I don't know. It has the Michigan Dems logo on
19 it, and we have a rule that says that you are
20 not allowed to use it without permission.

21 Q. Sir, you agree that the Michigan Democratic
22 Party did not issue, promulgate, develop, or
23 create this advertisement --

24 A. I have no idea. They have their logo on it and
25 they are required to get permission. So they

1 must have been involved.

2 Q. But you don't know that?

3 A. I don't know that, no.

4 Q. Okay. You are speculating?

5 A. I'm speculating. Sure.

6 Q. So you are not aware of any document that
7 suggests the MDP announced prior to the
8 convention that slate voting was going to be
9 used for these positions; right?

10 A. Yes, I am. Absolutely. They are required to
11 announce how voting is going to be conducted in
12 time for prospective members to be fully
13 informed.

14 Prospective members are not current
15 members and, therefore, need 30 days before
16 they are allowed to vote. Therefore, at least
17 30 days before the convention the MDP was
18 required to put out all the details of how
19 voting would be conducted at the election. The
20 only details they put out were what's published
21 on the website currently, which is the rules for
22 voting and elections and the bylaws.

23 Q. Which did not say that we are using slate voting
24 for the U of M Regent position; right?

25 A. It said they were going to use slate voting for

1 multiple-position elections.

2 Q. What document are you talking about? You're
3 just referring to the rules?

4 A. I'm referring to the rules for voting and
5 elections.

6 Q. Okay. Aside from the rules, the MDP did not
7 publish any kind of announcement, any kind of
8 documentation or instruction that at the
9 convention on August 24th, they were going to
10 use slate voting for these positions; right?

11 A. But if they didn't, they were required to.

12 Q. But they didn't say that; right?

13 A. No. They did. They published on their website
14 the rules.

15 Q. I'm not asking about the rules.

16 A. So --

17 Q. I'm asking about anything other than the rules.

18 Did they announce to the participants
19 at the convention in advance or at the
20 convention that they were going to be using
21 slate voting for these U of M Regent positions?

22 A. They did not, but --

23 Q. Okay. Thank you.

24 A. -- by default, they had to --

25 Q. Thank you. You answered my question. Thank

1 you.

2 No one told you from the MDP, verbally
3 or orally, that they were going to use slate
4 voting for these positions; correct?

5 A. I mean, the candidates told me they were on the
6 unity slate.

7 Q. Anyone from the MDP for the actual party tell
8 you that at the convention this is how voting
9 was going to be used or conducted?

10 A. No.

11 Q. And it was going to be conducted via slate?

12 A. No.

13 Q. It didn't happen; right?

14 A. No.

15 Q. So you concluded on your own based on this
16 advertisement from the AFL-CIO that slate voting
17 was going to occur?

18 A. Not solely from that. Other people were talking
19 about the unity slate and all of that. I
20 believe -- I'm pretty sure I actually talked to
21 Shauna Ryder-Diggs and she talked about the
22 unity slate.

23 Q. The unity slate is a label the AFL-CIO uses to
24 promote particular candidates; right?

25 A. It can be.

1 Q. That's what happened here; right?

2 A. I don't know.

3 Q. Slate voting requires slates to be nominated at
4 the convention as a slate; correct?

5 A. Yeah. I mean, yes.

6 Q. Not a single candidate for U of M Regent during
7 the August 24th convention was nominated as a
8 slate; right?

9 A. I remember that -- I remember that they called
10 out the candidates that were in nomination. I
11 don't recall exactly how they stated it.

12 Q. They were each individually nominated
13 separately; correct?

14 A. I don't recall exactly, but it could be.

15 Q. You understand that they each -- each of the
16 three candidates for U of M Regent filed their
17 petition paperwork with the Secretary of State
18 as individual candidates, not as a slate; right?

19 A. They wouldn't need to file with the Secretary of
20 State because the Secretary of State doesn't
21 recognize multiple-position offices or slate
22 voting.

23 Q. My question is: They submitted their petition
24 paperwork to the Secretary of State on an
25 individual basis; right?

1 A. To the Secretary of State, but to the Michigan
2 Democratic Party they are required to do it on a
3 slate. But they didn't do it is their problem.

4 Q. You're saying the candidates didn't submit their
5 own nomination as a slate; right?

6 A. I don't know.

7 Q. So even the candidates, as far as you
8 understood, knew going in that they were going
9 to be --

10 A. I have no way to know that.

11 Q. -- voting on a majority basis and not a slate?

12 A. The only thing I had to go on is what's right
13 here.

14 Q. You are talking about the advertisement from the
15 AFL-CIO?

16 A. And the discussion -- this is a common practice
17 in the MDP. When we having a slate voting
18 election, it's very common that you would form a
19 slate even on the day of the election. Then you
20 just talk about that slate and then you give a
21 list of the people that are going to be on it to
22 the MDP. So this was common practice.

23 Q. But none of this was generated by the MDP
24 itself?

25 A. I have no way to know one way or the other.

1 Q. Exactly. In your affidavit in paragraph
2 eight --

3 A. Mm-hmm.

4 Q. -- do you have it in front of you, sir?

5 A. I'm getting it. Paragraph eight, yes.

6 Q. This is where you recite portions of the rules?

7 A. Yep.

8 Q. You agree with me that your recitation of rule
9 2.1 is not a complete recitation; correct?

10 A. 2.1. No, it is not a complete recitation. It
11 gives the definition. It does not give the
12 examples provided for the definition.

13 Q. Right. You purposefully left out the examples
14 that talk about internal positions that are to
15 be considered multiple --

16 A. Because I --

17 Q. Hold on.

18 A. Sorry.

19 Q. That are to be considered multiple-position
20 offices; right?

21 A. I didn't intentionally leave it off to deceive
22 anybody. I left it off because it was not
23 relevant because it is examples, not an
24 exhaustive list.

25 Q. I see.

1 A. And what actually controls is the definition,
2 which I did provide.

3 Q. I see. Sir, you were asked about the
4 mathematical calculation that you performed --

5 A. Mm-hmm.

6 Q. -- on page seven, where it starts on page seven
7 of the article that you wrote that you attached
8 to an affidavit; correct?

9 A. Yep. Yep. I've got it.

10 Q. What is the source of the numbers that you used
11 for those votes?

12 A. These were the numbers as they were announced at
13 the convention.

14 Q. Based on a majority voting process that was
15 employed at the convention; correct?

16 A. Well, that's correct. But, again, you can
17 extract the proper calculation from the majority
18 vote as I have done -- as I have shown here.

19 Q. But in doing that calculation, you're assuming
20 who the slates would have been paired with;
21 right? You relied upon this advertisement from
22 the AFL-CIO to define for yourself what a slate
23 was for purposes of your mathematical
24 calculation?

25 A. Yes.

1 Q. Okay. Thank you.

2 You were also asked about a quorum and
3 whether a quorum was present.

4 A. Yes.

5 Q. You believe a quorum was not present?

6 A. Correct.

7 Q. Am I understanding you correctly?

8 A. Correct.

9 Q. If you turn back to your affidavit, I believe
10 you mentioned this in paragraph 12.

11 A. Mm-hmm.

12 Q. If a quorum is not present, there is an
13 opportunity for someone to lodge an objection at
14 the convention in real time. Right?

15 A. Yeah, that's true.

16 Q. And you did not lodge an objection; correct?

17 A. I did not. As I say here, I was ridiculously
18 tired after -- I was just not thinking straight,
19 but I did not lodge an objection.

20 Q. You are not aware of anybody else that lodged an
21 objection; correct?

22 A. No, I'm not.

23 Q. Someone could have?

24 A. Someone could have lodged an objection.

25 MR. ELDRIDGE: Thank you, Your Honor.

1 No further questions.

2 THE COURT: Thank you, Mr. Eldridge.

3 Ms. Meingast, any questions? Or

4 Mr. Grill.

5 MS. MEINGAST: No, Your Honor. Just

6 for the record, the Secretary has no position on

7 any of the issues with respect to the interparty

8 dispute.

9 THE COURT: All right. Mr. Akeel,

10 redirect?

11 MR. AKEEL: Yes, Your Honor. Just

12 quick.

13 THE COURT: Take your time.

14 MR. AKEEL: Thank you.

15 REDIRECT EXAMINATION

16 BY MR. AKEEL:

17 Q. Mr. Sharon, you were asked several questions
18 regarding the slate method of voting and what
19 type of positions. Do you recall that line of
20 questioning?

21 A. Yes.

22 Q. What is the relevance of the rules being posted
23 on the website for all the democratic members
24 regarding the method of voting?

25 A. Well, the first significance is that we have a

1 rule that says that's required -- that you have
2 to publish and publicize the full details of how
3 you are going to run an election and the full
4 qualifications for being a candidate within time
5 for, quote/unquote, prospective members to
6 participate fully. A prospective member is not
7 a member and members do not have voting rights
8 for 30 days; therefore, for 30 days beforehand
9 the party must publish --

10 Q. Before what -- convention?

11 A. Before the vote -- the date of the vote --

12 Q. Okay.

13 A. -- they must publish the full details of how
14 they are going to run the election.

15 Q. Okay.

16 A. In previous situations like this I have written
17 many appeals in the Democratic Party and they
18 have said that, well, we publish our rules.
19 Okay? So our rules are, you know -- and
20 actually at the time they had not published
21 fully the rules.

22 In the 2018 rewrite of the rules, we
23 made it explicitly required that they publish
24 their rules online and that those are the only
25 rules that are allowed in the party.

1 So that -- and the significance of that
2 is that you cannot have a democracy if the
3 people don't know what the rules are.

4 Q. Okay.

5 A. Yeah.

6 Q. Now, since the rules changed in 2018 and we are
7 talking about a staggered election -- so every
8 two years -- the next one -- 2020, 2022?

9 A. Right.

10 Q. Really it's still in its infancy; correct?

11 A. Correct.

12 Q. You were asked questions if this ever has been
13 applied and it hasn't because the rules just
14 recently changed?

15 A. Correct.

16 Q. So going back to what you're saying, a
17 prospective citizen who wants to be a
18 prospective member before they want to join the
19 Michigan Democratic Party, they will now have
20 the opportunity to look at the rules and see,
21 okay, how is voting going to happen. One way is
22 majority. One way is slate. Okay. That's when
23 they sign. It is supposed to be 30 days before
24 the convention?

25 A. Correct.

1 Q. Which involves the election for the Board of
2 Regents -- University of Michigan, Wayne State,
3 Michigan State?

4 A. Correct. That's rule 2.14, by the way.

5 Q. All right. You were asked some questions about
6 this document.

7 A. Mm-hmm.

8 Q. This is Exhibit 6.

9 A. Right.

10 Q. The picture with the slate. In the top there it
11 looks like it wasn't just for University of
12 Michigan.

13 A. Right.

14 Q. It looks like it's for all the other
15 universities. That's just common practice?

16 A. Right. Yeah. Those are all the
17 multiple-position offices, so they are the ones
18 that need slate voting.

19 Q. And what is the significance when you saw here
20 the Michigan Dems logo?

21 A. Well, there is a rule in the MDP that you can't
22 use the logo without permission. So I'm
23 assuming the AFL-CIO got permission.

24 The other thing is is that it's
25 typically the unions that make up the slates

1 anyway. I mean, it's typically the union people
2 that get people together and make up the slate.
3 So it was no surprise to me that the unions made
4 up the slates and made up the advertising for
5 them.

6 Q. So either the union violated the rules or the
7 State of Michigan gave permission; correct?

8 A. Yeah.

9 Q. But at the end of the day the public saw the
10 Michigan logo and saw the -- saw the words unity
11 slate; correct?

12 A. Correct.

13 Q. That's what was represented to the citizens?

14 A. Correct.

15 MR. ELDRIDGE: Your Honor, lots of
16 leading questions. I'm wondering who's
17 testifying here.

18 THE COURT: I think Mr. Akeel is trying
19 to expedite the questioning.

20 MR. AKEEL: I'm trying to expedite it.

21 THE COURT: Do your best, Mr. Akeel, to
22 not lead.

23 MR. AKEEL: I'm almost done,
24 Your Honor.

25 BY MR. AKEEL:

1 Q. So during the whole process, did you hear any
2 objector from the State of Michigan or anybody
3 telling the union, hey, don't use our logo?

4 A. No.

5 Q. Okay. This was widely publicized everywhere?

6 A. Yeah. That was the big flyer put out
7 everywhere.

8 Q. Okay. I want to take you back -- again,
9 regarding the slate voting --

10 A. Mm-hmm.

11 Q. -- issue, to the initial document that I
12 presented to you.

13 A. Mm-hmm.

14 Q. That's titled rules for voting and election in
15 the Michigan Democratic Party.

16 A. Got it. I've got it here.

17 MR. AKEEL: Your Honor, it's this
18 document here.

19 BY MR. AKEEL:

20 Q. In 1.1, the last sentence, it states, no other
21 voting procedures are approved for use within
22 the MDP. Do you see that?

23 A. Yes.

24 Q. What is the significance of this?

25 A. It says these are the only rules for voting and

1 elections that you have in the MDP at all. If
2 you are not following these rules, you are not
3 following any rules.

4 Q. So to summarize, in the end at the convention at
5 every member's disposal they had the website.
6 The website instructed that there's two methods,
7 either majority or slate. The prospective
8 members were also -- it was represented to them
9 that there was a unity slate for different
10 universities; correct?

11 A. Correct.

12 Q. Okay. And in the end, according to all of the
13 published publications, the Michigan Democratic
14 Party had, in fact, endorsed the unity slate?

15 A. Yes.

16 MR. AKEEL: Thank you, Your Honor. I
17 have no further questions.

18 THE COURT: All right. Very good. You
19 may step down, sir.

20 THE WITNESS: Thank you.

21 (The witness was excused at 11:55 a.m.)

22 THE COURT: Mr. Akeel, do you intend to
23 call another witness?

24 MR. AKEEL: Yes, one more, Plaintiff
25 Huwaida Arraf.

1 THE COURT: Mr. Eldridge, I know there
2 was discussion before we took the break with
3 regard to this witness's testimony. Have you
4 and Mr. Akeel essentially sorted out the scope
5 of the testimony or are there some objections or
6 where do things stand with regard to that?

7 MR. AKEEL: I consulted, Your Honor.

8 MR. ELDRIDGE: We did speak,
9 Your Honor. The way they were described to me,
10 there were three topics to be discussed. In a
11 vacuum, I don't have any objection until I guess
12 I hear some of the questions.

13 THE COURT: Okay. Without prejudice to
14 any objections you may raise during her
15 testimony, Mr. Akeel, you may call that witness.

16 MR. AKEEL: Okay.

17 THE COURT: Ma'am, please raise your
18 right hand.

19 Do you swear or affirm to tell the
20 truth, the whole truth, and nothing but the
21 truth?

22 MS. ARRAF: I do.

23 THE COURT: Please be seated. As you
24 heard me tell Mr. Sharon, if you would -- you
25 can adjust that so we can hear you. Feel free

1 to move it up and down or move it around on the
2 desk.

3 Please state your full name. I know it
4 is listed in the pleadings. If you would, state
5 your full name and spell it.

6 THE WITNESS: My name is Huwaida Arraf.
7 H-u-w-a-i-d-a. Last name is A-r-r-a-f.

8 THE COURT: Mr. Akeel, go ahead, sir.

9 MR. AKEEL: Thank you.

10 HUWAIDA ARRAF,
11 (At 11:56 a.m., having been called by the Plaintiffs
12 and sworn in by the Court, testified as follows:)

13 DIRECT EXAMINATION

14 BY MR. AKEEL:

15 Q. Good morning, Ms. Arraf.

16 A. Good morning.

17 Q. What is your profession?

18 A. I am a civil rights attorney.

19 Q. What college did you graduate from?

20 A. My undergrad was at the University of Michigan
21 and my law degree was from American University.

22 Q. Okay. We are here because of what happened at
23 the convention, so I'm going to fast-track it.

24 When the results were announced and
25 everything, did you try to resolve the issue

1 that night?

2 A. Oh, yes.

3 Q. What did you try to do?

4 A. I heard it said there was no objection. There
5 was a lot of objection, absolutely. We have
6 video of the whole -- everyone that was in the
7 convention hall objecting and asking to see the
8 math.

9 I personally went up to Ms. Christine
10 Jensen and said that we do not accept these
11 results, I contest the results. And she said
12 the way to contest it is in the call to
13 convention.

14 I pulled up the call to convention in
15 front of her. I said that there is nothing in
16 here about the call to convention. She said
17 then it's in the rules. I pulled up the rules.
18 There was nothing in the rules for the
19 convention. I said it's not here either. She
20 said there is nothing I can do, and she left.

21 When I got in the car to go home, I
22 sent an email to the chair, Lavora Barnes,
23 copying Christine Jensen. I said I want to
24 reiterate we do not accept these results. We
25 want accountability. We want -- you know, we

1 want to contest them.

2 And one of the first things I asked for
3 is for her to send the raw data.

4 Q. Okay. And --

5 A. Sorry. Let me add to that.

6 Again, the whole convention hall
7 objected. We were pushed out by police. The
8 Michigan Democratic Party called the police
9 before they announced the results and then as
10 the objections were happening and I was talking
11 to Ms. Christy Jensen, we were pushed out by
12 police.

13 Q. Were you allowed to look at the vote
14 tabulations?

15 A. No. That was when we named -- there was a lot
16 of irregularities. I mean, I'm a civil rights
17 attorney. I believe in people's right to vote,
18 the constitutional right to vote which includes
19 the right to participate in a political process
20 that's fair and just.

21 One of the things that was just
22 outrageous to me is when they closed the votes,
23 two and a half, three hours went by. Nobody
24 told me what was going on.

25 And each time I had someone from my

1 campaign go to where -- supposedly where they
2 were tabulating the votes and ask to oversee --
3 so monitor -- and each time they were rejected.
4 I had a data analyst go in. I had another data
5 analyst try to go. I had my husband go. I went
6 personally and said I'm the candidate; I want to
7 oversee the tabulation, and they didn't let any
8 of us in.

9 Meanwhile, other people were seeing
10 people from other campaigns and the unions who
11 promoted the unity slate back there in the vote
12 tabulation room.

13 This was another thing that I asked the
14 chair, Lavora Barnes, to explain. Like how is
15 this even fair? And that is part of the
16 irregularities that had me call into question
17 how they did this whole thing.

18 Q. Okay. What did you do after that?

19 A. I spent days communicating --

20 Q. Strike that. Let me preface that.

21 You heard the judge indicate why wait
22 and why this. Explain what happened and what
23 was your mindset and how you wanted to approach
24 this.

25 A. Look, I'm a member of the Democratic Party. I

1 want to see -- and inform my campaign. We had
2 hundreds of new members sign up. I wanted to
3 see -- I want it to be a vibrant party. I want
4 youth to take part. I want people who don't
5 traditionally like to vote or get involved to
6 get involved.

7 That's what happened with my campaign.
8 Hundreds of new people came out and tried to
9 participate. They were really upset at how
10 things went down when the results were announced
11 after hours and then no explanation.

12 They did not -- when people were asking
13 to see the math, how this was done, how they
14 came up with results, and nothing. We were
15 pushed out by police.

16 So, again, people -- especially the
17 youth -- were disillusioned, disenfranchised,
18 and I didn't want to exacerbate that. So when I
19 emailed Lavora, the chair, I said let us resolve
20 this amicably. There is a lot of distress that
21 was raised. Please show -- hand us the raw
22 data.

23 Q. What does that mean to you?

24 A. The data that was turned over -- so we voted via
25 a votes machine that tabulates or receives all

1 of the votes. We wanted the data from that
2 because they -- the Michigan Democratic Party
3 apparently took that data and then for two and a
4 half, three hours were back where no one from my
5 campaign would be and were doing something with
6 that data.

7 Otherwise, they would have just
8 announced it right there. It is an electronic
9 vote machine and it tabulates, but for three
10 hours, two and a half, they were doing
11 something.

12 And so on Sunday night -- sorry --
13 Saturday night, right after the convention, I
14 emailed Lavora and copied Christy and the
15 parliamentarian of the party as well as the
16 attorney of the party saying that we contest
17 these elections and we request the raw data.

18 The next day I received an email from
19 the chair, Lavora Barnes.

20 Q. August twenty --

21 A. I'm sorry. August 25th was the next day.

22 Q. Okay.

23 A. I received an email saying that there was no
24 way -- there is nothing in the call to
25 convention or the rules about contesting it. So

1 she confirms that basically I can't contest it.
2 I can't ask for a recount. She said what you
3 can do is file a petition with the MDP appeals
4 committee if you feel aggrieved as a member.

5 So essentially she was saying that, you
6 know, their elections aren't reviewable except
7 through a process that won't really deliver any
8 effective remedy.

9 So I -- and then they sent -- she sent
10 data that she said was the raw data. I had my
11 people, my data analyst look at it and they said
12 that this was not actually the raw data; ask
13 again for the raw data from the votes machine.
14 But then they said with what they gave us there
15 are so many discrepancies, there is missing
16 information, there are votes for me that weren't
17 calculated because they did not include the
18 district and so they weren't assigned a number
19 of points according to the MDP's weighting
20 formula.

21 And then, most shockingly, there were
22 1,420-some unique -- they say unique voter IDs.
23 They said so 1,422 people voted when they
24 announced only 1,248 were credentialed.

25 So early Monday morning I knew that

1 according to the rules or the Michigan state
2 laws -- election law, that they would submit to
3 the Secretary of State who their nominees were
4 within 24 hours or within one business day of
5 the convention.

6 So early Monday morning I emailed
7 Lavora again and I said from what you provided
8 to us we found a lot of inconsistencies that are
9 deeply troubling including these extra voters
10 and so this calls into question the validity
11 actually of the results that you have. So I ask
12 to halt the reporting because now, you know, you
13 are on notice that there is something wrong
14 actually with how you tabulated it. You should
15 want to come to the bottom of this. I said to
16 increase everybody's faith in how these
17 elections went down, stop until we can figure it
18 out.

19 I invited her to have a meeting. I
20 said I'll meet with you and we can go over how
21 this was done. And I did not get a response.
22 And later that day we saw that the names were
23 given to the Secretary of State that were
24 published on the Secretary of State website.

25 And so I emailed again saying that I'm

1 disappointed this has happened, but I really
2 don't want to go to the media or get the courts
3 involved. I think it would be beneficial for
4 all of us -- again, it's my party. I don't want
5 to out the party, especially going into a
6 November election to be like, hey, the Michigan
7 Democratic Party is doing something wrong. But
8 all of my attempts were basically ignored.

9 I did submit an appeal, as she asked me
10 to, and I said but because the reporting is --
11 you know, they are going to finalize the ballot
12 soon, I ask for expedited review of this appeal.
13 And I got a response saying it will be reviewed
14 according to the rules, which, you know, the
15 rules say it takes 30 to 45 days. I wrote back
16 to confirm, okay, so you are rejecting or
17 denying my request for expedited appeal. I
18 didn't get a response.

19 So it was really frustrating and very
20 disappointing honestly.

21 Q. If the --

22 A. I will add, you know, I saw it raised that
23 Mr. Eldridge raised the fact that -- you know,
24 in a press release that I said I'm not claiming
25 to have won.

1 Again, to the public, to the party, to
2 voters, to the new members, I just wanted to
3 call for accountability within Michigan
4 Democratic Party. I did not want to say, hey,
5 you cheated, Michigan Democratic Party; I should
6 have won.

7 So in all of my public statements I was
8 trying -- and that's after days of trying to
9 communicate with the party alone and say let's
10 resolve this amicably internally.

11 Then we did make a public statement and
12 we said we want accountability, transparency.
13 It is the bedrock of any election process to
14 have any kind of voting or electoral integrity
15 and say that I'm not saying I won; we want to
16 see the data; we want to see how you calculated
17 this.

18 MR. AKEEL: Your Honor, may I approach
19 the witness?

20 THE COURT: You may.

21 BY MR. AKEEL:

22 Q. I would like to provide you a picture, not a
23 great picture, but you'll see there that there
24 are people wearing yellow shirts. Can you
25 explain what's going on here?

1 MR. ELDRIDGE: Your Honor, if I may,
2 for the record, I have not seen this before.
3 I'm not sure what exactly this is.

4 THE COURT: I think Mr. Akeel will lay
5 some foundational information. Then,
6 Mr. Eldridge, I can hear from you if you wish.

7 MR. ELDRIDGE: Thank you, Your Honor.

8 BY MR. AKEEL:

9 Q. Have you seen this kind of picture before?

10 A. I have seen a lot of pictures and videos from
11 the day of the convention, yes. This looks like
12 one of them. I don't know if it's a still of a
13 video or actually a picture, but it does show a
14 lot of people at the convention -- I believe all
15 of them wearing yellow because that was the
16 T-shirts of my campaign. Everyone there holding
17 signs or wearing yellow is most likely from my
18 campaign or my supporters.

19 Q. Okay.

20 A. We were a -- probably an overwhelming majority
21 of the convention.

22 MR. AKEEL: Your Honor, we have with us
23 a disk that we got of the convention showing the
24 whole convention and how everybody was about to
25 vote and it gives the Court an idea of the

1 number of people. The whole purpose is to
2 demonstrate the number of support and people
3 that were at the convention and how they were
4 essentially shocked when they heard the results
5 and started, you know, saying "show the math."
6 This is a document that, again, I will make
7 copies and give it to Counsel and present it to
8 the Court as well.

9 THE COURT: Before I hear from
10 Mr. Eldridge, a couple of things that come to
11 mind.

12 So far the documents that you have used
13 with the witnesses have been documents that were
14 attached as discretely identified exhibits as
15 attachments to the verified complaint.

16 Now, we have a photograph and now you
17 are referencing an electronic device. And I
18 want to make sure -- regardless of what happens
19 after Mr. Eldridge comments, I want to make sure
20 that we have some way to identify all of this
21 for any preservation of the record.

22 MR. AKEEL: I would identify it as
23 Hearing Exhibit 1.

24 THE COURT: For which one?

25 MR. AKEEL: For the picture, Hearing

1 Exhibit 1.

2 THE COURT: Can you mark that then?

3 There should be stickers in the box as well.

4 So Plaintiffs' Hearing Exhibit 1.

5 MR. AKEEL: Plaintiff Hearing

6 Exhibit 1.

7 THE COURT: Okay. And then presumably
8 the flash drive or whatever you want to refer to
9 it as with the video on it would be 2.

10 MR. AKEEL: Correct.

11 THE COURT: Now, Mr. Eldridge.

12 MR. ELDRIDGE: A number of things to
13 discuss, Your Honor.

14 We object to the introduction and
15 admissibility, even for purposes of preliminary
16 injunction hearing, to both of these.

17 This Hearing Exhibit 1, this photo, I
18 don't believe this has been authenticated. The
19 witness testified she's not quite sure what this
20 is. I don't know that there is any sense of
21 authentication or reliability that's attached to
22 this particular photograph. I'm not sure for
23 what purpose it is actually being proposed to be
24 admitted into the record. So we object to it
25 being admitted into the record for those

1 reasons.

2 I should have mentioned preliminarily
3 that I think this is starting to go beyond the
4 scope of the three items that Mr. Akeel and I
5 discussed before the testimony.

6 MR. AKEEL: I have one more question
7 and we are done.

8 MR. ELDRIDGE: Well, we didn't talk
9 about new photos, new videos that are coming
10 from unknown sources to be presented into the
11 record.

12 So beyond the scope of what we had
13 talked about it -- the video, no idea what we
14 were about to watch. No idea where it is coming
15 from. It is coming from some person in the
16 gallery of the courtroom today.

17 I'm presuming the witness is not going
18 to testify that she took the video, she knows
19 where the video has come from, that this can be
20 authenticated in any way. We object for those
21 reasons, Your Honor.

22 THE COURT: Mr. Akeel.

23 MR. AKEEL: Your Honor, the purpose of
24 the exhibit was to address some of the issues
25 that came up today -- was there an objection

1 lodged, and why wait. Testimony came that the
2 people were in an uproar when they heard about
3 the results. This was a picture taken of the
4 folks that were there. It could be also
5 considered as demonstrative evidence just to
6 kind of demonstrate.

7 This disk can also be considered -- if
8 it's not substantive evidence, also
9 demonstrative evidence of the amount of people
10 that were there expressing support for the
11 plaintiff. We'll give a copy.

12 MR. ELDRIDGE: Your Honor, I don't
13 doubt there were people there supporting the
14 plaintiff.

15 MR. AKEEL: Majority of the people in
16 the convention were in support.

17 MR. ELDRIDGE: I don't know how the
18 video will show that without a tally. She lost
19 the vote, but we don't doubt she had support
20 there. We don't doubt that her supporters were
21 going to express their upset at the results.

22 I don't know that we are here to talk
23 about that. We are here to talk about
24 whether -- she's here to testify that she has
25 concerns about the process, not whether her fans

1 or her supporters were upset --

2 THE WITNESS: Members objected is what
3 we were saying.

4 THE COURT: Hold on, please.

5 MR. ELDRIDGE: Back to the photo, we
6 have no idea when this photo was taken. We have
7 no idea by whom. We have no idea what it is
8 representing. They are claiming it represents
9 some apparent outrage by her supporters, but I
10 don't know that I see that here. We have nobody
11 that can testify to the authenticity of this
12 thing or what it means.

13 The video, again, if it is all about
14 her supporters being upset about the outcome,
15 we'll stipulate that her supporters were upset
16 about the outcome. She's upset about the
17 outcome. That's why she's here.

18 To the extent it shows that they were
19 somehow lodging some kind of formal objection,
20 which is what I was told the scope of the
21 testimony was going to be -- lodging
22 objections -- why did she wait? And what
23 happens if injunction is issued?

24 Those were the three items Mr. Akeel
25 asked me to talk about, not were your fans upset

1 at the end of the -- when the results were
2 announced.

3 THE COURT: All right.

4 MR. AKEEL: If I may, Your Honor.

5 THE COURT: Sure.

6 MR. AKEEL: Why we waited -- going to
7 your number two, why we waited, testimony has
8 been elicited from the plaintiff that she was
9 internally trying to keep it in house, trying to
10 communicate to give us the raw data.

11 THE COURT: Let me put your mind at
12 ease, Mr. Akeel.

13 MR. AKEEL: Sure.

14 THE COURT: I don't think you need to
15 argue the issue of what she testified to. I
16 think she has clearly testified as to those
17 reasons why what efforts she made to resolve it
18 other than first taking other actions that she
19 talked about like going to the media,
20 litigation, or whatever it is. She clearly
21 testified that there were members in the
22 audience or on the floor, or however you want to
23 describe it, who were upset and voiced being
24 upset about the reported result, the announced
25 results.

1 So I don't think there is any -- she's
2 been very clear and articulate about that, so I
3 think those issues are covered.

4 If you want to have these items marked
5 and preserved for purposes of this record,
6 that's fine. For my purposes, I think her
7 testimony has addressed those -- two of the
8 three issues. I guess you can get to the third
9 issue next.

10 MR. AKEEL: Yes.

11 THE COURT: Two of the three issues
12 that you indicated you intend to present with
13 Ms. Arraf's testimony.

14 MR. AKEEL: Thank you.

15 THE COURT: So I don't have any problem
16 with them being marked, being preserved for the
17 record. I don't intend to any further review of
18 Exhibit 2, for example. I take the witness's
19 testimony at her word and you can ask further
20 questions about that if you want, but what I
21 have heard so far is she indicated there was
22 some sort of an outburst or expression in
23 response to the announcement of the tally.

24 MR. AKEEL: Okay. Thank you, Your
25 Honor. I'll just offer it into evidence then,

1 Exhibit 2.

2 THE COURT: Like I said, I'm not going
3 to accept it as an exhibit for purposes of me
4 reviewing and relying upon it, but if you want
5 to preserve it as part of the overall record
6 that you are making here with the testimony,
7 that's fine. I think she has very clearly
8 testified on the matters that you indicate are
9 in both this photograph and Exhibit 2. At this
10 point it would be, in my view, if nothing else,
11 cumulative and not needed for my purposes.

12 MR. AKEEL: Okay.

13 BY MR. AKEEL:

14 Q. The final question, if the Court issues a
15 preliminary injunction compelling MDP to just
16 follow the bylaws and, you know, give you the
17 data, how will this help even today?

18 A. Well, you know, we still have half a day left.
19 And if they actually follow their bylaws then we
20 would have an accurate accounting of -- a review
21 of how the vote was done and how it should have
22 been done, and we will have results that can be
23 reported to the Secretary of State today
24 actually without the need for an injunction to
25 stop the Secretary of State process at all.

1 There is the issue of the slate voting.
2 That is number one. We argue that they should
3 have followed slate voting. So if they do, they
4 can do their own calculations.

5 Again, as Mr. Sharon pointed out, he
6 did his calculations by the numbers that the
7 Michigan Democratic Party gave us, which we are
8 not sure are the right numbers because there are
9 174 extra voters, it seems, from the document
10 that they gave us. But even using those numbers
11 and using the slate method, I should have had
12 the second seat.

13 Secondly, if you want to then just give
14 us the raw data from the votes machine and give
15 us the list of credentialed voters as of
16 2:00 p.m. on Saturday, August 24th, which is
17 when the MDP announced that credentialing would
18 close -- 2:00 p.m., Saturday, August 24th.

19 Give us the list of all the
20 credentialed people. We will run them against
21 all of the votes we have. Should take less than
22 an hour. We will then also know who voted extra
23 and shouldn't have and can recalculate.

24 Give us the raw data from the votes
25 machines, not the ones the MDP played with, and

1 a final list of credentialed voters. It should
2 take less than an hour to run then that data
3 and, again, come up with a result that can be
4 reported accurately to the Secretary of State.

5 Q. Okay. Presumably the preliminarily injunction
6 is issued that could be reported to the
7 Secretary of State?

8 A. Yeah. If the Court issues a preliminarily -- I
9 would think if the Court issues an injunction
10 now compelling the Michigan Democratic Party to
11 comply with its own laws, if they will do that
12 right away then we can settle this today.

13 MR. AKEEL: Okay. Thank you, Judge. I
14 have no further questions.

15 THE COURT: Thank you, Mr. Akeel.

16 Mr. Eldridge.

17 MR. ELDRIDGE: Thank you, Your Honor.

18 THE COURT: Mr. Akeel, you might want
19 to take -- I'll tell you what. You can put
20 those two right here and we'll decide what we do
21 with the exhibits.

22 MR. AKEEL: Okay.

23 THE COURT: Mr. Eldridge.

24 MR. ELDRIDGE: Thank you, Your Honor.

25

CROSS-EXAMINATION

BY MR. ELDRIDGE:

Q. Good afternoon, ma'am.

A. Good afternoon.

Q. You testified that you and others tried to object at the convention; right?

A. Yes.

Q. If I understood your testimony right, you were referring to trying to object to the results that were announced of who prevailed for the race that you were running for; right?

A. Yes.

Q. Was there ever a time prior to the convention that you were told slate voting was going to be used?

A. Was I directly told anything? No. But we -- in preparing for the convention we looked over the bylaws, the call to convention, and the rules that were posted on the website. There are actually rules and resolutions for the convention that were supposed to be posted on the website, but they never were, even up to the day of the convention.

So what we had on the website was the call to convention, the bylaws, and the rules

1 for slate voting. Reviewed those very well.

2 According to those, we thought we had an
3 accurate idea of how the voting would proceed.

4 Q. The call to convention does not say that slate
5 voting was going to be utilized; right?

6 A. It doesn't say that slate voting is not going to
7 be utilized. Right.

8 Q. It doesn't say it was going to be utilized?

9 A. Not that I recall. Correct.

10 Q. You didn't receive written notification from the
11 MDP that slate voting would be utilized; right?

12 A. If it's written in the rules, do you have to
13 give another notification?

14 Q. Let's set the rules aside.

15 A. I didn't receive communication from the Michigan
16 Democratic Party saying that this is
17 reiterating, let's say, that slate voting was
18 going to be used.

19 Q. You have a different interpretation than MDP
20 leadership about whether slate voting should
21 have been used at the convention; correct?

22 A. Do I -- my interpretation is what I read from
23 the rules that they have on the website.

24 Q. And they didn't employ slate voting; correct?

25 A. They did not employ slate voting.

1 Q. So safe to assume they interpret that rule
2 differently than you for the race that you were
3 running for; correct?

4 A. I don't know how they interpret it. I know that
5 they didn't employ it.

6 Q. Okay. And you're not aware of an instance where
7 a partisan public elected position has ever been
8 voted on at the MDP convention using slate
9 voting; correct?

10 A. My recollection since I have been involved is
11 that these seats are usually not contested and,
12 therefore -- and there were -- on the day of my
13 vote, there was a vote for the Board of
14 Education, two seats for the Michigan State
15 University and for Wayne State University, and
16 then my seat, University of Michigan.

17 None of those were contested until I
18 entered the race, which was two and a half,
19 three weeks before. Mine was the only contested
20 election on that date.

21 And then the other convention that I
22 went to, I was there in person. Again, it was
23 not -- none of the races were contested, so it
24 didn't come up. It really wasn't a question.

25 Q. So the answer to my question which is you are

1 not aware of a circumstance where an elected
2 spot or position like the one you were running
3 for was ever voted by slate voting; correct?

4 A. That's correct, because the issue has never come
5 up, from my experience. It certainly can, but
6 not in my direct experience.

7 Q. Now, the voting rules call for or permit -- and
8 if I understand Mr. Sharon's testimony and his
9 affidavit -- majority voting or slate voting;
10 right?

11 A. Mm-hmm.

12 Q. Correct?

13 A. Correct.

14 Q. And slate voting is reserved for multi-purpose
15 offices? Yes?

16 A. Multi-position.

17 Q. Multi-position offices. Thank you.

18 A. Correct.

19 Q. Correct?

20 A. Yes.

21 Q. Thank you.

22 A. Correct.

23 Q. And you agree with me that the rules list
24 examples of multi-position offices for that
25 purpose; right?

1 A. They list examples, yes.

2 Q. And those examples do not include the position
3 of regent for U of M; correct?

4 A. That is correct, but they are also not
5 exhaustive.

6 Q. They are also only -- the examples only include
7 internal MDP positions; correct?

8 A. The examples, yes, but the rules for voting and
9 elections clearly says that no other rules apply
10 to voting within the Michigan Democratic Party,
11 and this was a vote that took place within the
12 Michigan Democratic Party.

13 Q. Well, you just told me that majority voting
14 takes place in the Michigan Democratic Party.

15 A. For single-position races, yes.

16 Q. Okay. You disagree with the interpretation on
17 single position -- what a single-position versus
18 a multiple-position spot is; right?

19 A. I mean, two spots seems like multiple to me. Do
20 you disagree?

21 Q. I'm asking you. Do you know how the MDP
22 interprets it?

23 A. I do not know.

24 Q. Okay.

25 A. I don't know.

1 Q. You just disagree with their interpretation of
2 the rule; correct?

3 A. I disagree that a position for two seats might
4 mean a single seat, yes.

5 Q. Now, as the convention was moving along and you
6 were watching votes being cast, I imagine you
7 cast a vote. Correct?

8 A. I did, correct.

9 Q. When you casted a vote, you knew you were not
10 voting by slate; right?

11 A. I did not know actually because -- I mean, they
12 listed the names. And so how they were going to
13 tabulate that or how -- no, I didn't know.

14 Q. You had no idea how it was being done as you
15 were voting at the time?

16 A. As I was voting, no, I didn't know how it was
17 being done.

18 And then afterwards, as I explained,
19 they closed the vote, disappeared. Nobody told
20 us anything and our multiple attempts to talk to
21 them to get to where they are tabulating the
22 votes to see how they were tabulating the votes,
23 we were rejected.

24 I was not able to talk to them for
25 almost three hours after when Christy Jensen,

1 the executive director, was there and I clearly
2 said that we object to this.

3 Q. Ultimately they directed you to the formal
4 process in the rules that allows you to file an
5 appeal; correct?

6 A. I asked to contest the vote.

7 Q. They explained you could file an appeal under
8 the rules; correct?

9 A. They said -- no. If I remember Lavora's email
10 correctly -- and it is in the exhibits that we
11 included -- it said something to the effect of
12 there is nothing in the call to convention by
13 which you can contest the vote, but if you feel
14 aggrieved as a member, you can file something
15 with the appeals committee -- the MDP appeals
16 committee.

17 Q. So the answer to my question is, yes, they told
18 you that you can file an appeal and that was
19 your avenue toward lodging some kind of
20 objection as to the results of the vote;
21 correct?

22 A. But how is that an effective remedy?

23 Q. But that is the remedy that's available in the
24 rules?

25 A. That's not a remedy for reviewing -- that's not

1 a remedy for reviewing the elections and
2 election results for the purpose of actually
3 having accurate elections and fair elections.

4 If your only remedy is to have
5 something that is going to be decided well after
6 you can do anything about it then it is not a
7 remedy at all; is it?

8 Q. Do the MDP bylaws say anything about recounts?

9 A. No, they do not say anything.

10 Q. That's not an option under the MDP bylaws;
11 right?

12 A. It doesn't seem to be so, but that would be -- I
13 think -- no. That's right.

14 Q. And you are asking this Court to order the MDP
15 to conduct a recount; correct?

16 A. I'm asking the Court to order the MDP to follow
17 its bylaws. I think we clearly laid out what
18 the violations of the bylaws are. The first is
19 how they conducted the vote. The second is how
20 many people they let vote, and that is
21 clearly -- that is -- even people who are not my
22 supporters are outraged by that, and people want
23 accountability.

24 Q. Ma'am --

25 A. Then there's actually ratifying the vote when

1 you don't have a quorum, which are three clear
2 violations. And then not being forthright, not
3 being transparent when we are asking for -- when
4 we are asking for data. Just let us see the
5 data.

6 Q. Ma'am, you have seen the motion that your
7 attorneys filed asking for the preliminary
8 injunction, I assume.

9 A. Yes.

10 Q. In the prayer for relief you ask the Court to
11 order the MDP to conduct a full and transparent
12 investigation or audit of the University of
13 Michigan Regent vote-counting process; correct?

14 A. Which number is that?

15 Q. This is subpart A under your prayer for relief
16 on page six.

17 You say you are asking the Court to
18 enjoin defendants as follows: A, quote,
19 ordering defendant MDP, by and through its
20 officials including Defendant Barnes, to conduct
21 a full and transparent investigation or audit of
22 the University of Michigan Regents vote-counting
23 process.

24 A. Mm-hmm.

25 Q. End quote. Is that right?

1 A. I don't have it in front of me, but it seems to
2 be right.

3 MR. ELDRIDGE: Okay. Counsel, did I
4 misstate that?

5 MR. AKEEL: The record speaks for
6 itself.

7 MR. ELDRIDGE: Thank you.

8 BY MR. ELDRIDGE:

9 Q. Did the MDP bylaws, ma'am, say anything about
10 conducting an investigation or audit after a
11 convention?

12 A. Look, the MDP bylaws are very sparse, but for
13 what they do say, for what they do provide, we
14 pointed out three to four very clear violations.

15 Q. My point --

16 A. You are trying to point out a fifth one.

17 Q. Okay. My question is do the MDP bylaws say
18 anything about conducting investigations or
19 audits after the convention?

20 A. Not that I recall. No, it does not.

21 Q. You want the MDP, of course, to follow the
22 bylaws; right?

23 A. If they violated the bylaws, then there should
24 be a process by which they review those
25 violations.

1 Q. I see. But there is not in the MDP bylaws. We
2 agree on that, it sounds like.

3 A. Look, because there is nothing in the bylaws
4 that say they have to actually follow their own
5 bylaws -- actually, I think it does say that.

6 Q. Okay.

7 A. They are bound by them. Right.

8 Q. I just want to make sure we are clear.

9 A. Mm-hmm.

10 Q. We agree it sounds like that there is nothing
11 the bylaws that says anything about
12 investigations or audits after a convention and
13 after -- or after the party certifies the
14 results to the Secretary of State; right?

15 A. Correct. There is nothing in the bylaws that
16 says that.

17 Q. Thank you. You also ask for in the same
18 paragraph, quote, a recount of the votes in
19 conformity with the MDP bylaws, rules for voting
20 and elections and other governing rules, end
21 quote.

22 A. Yes.

23 Q. Do you recall that?

24 A. Yes.

25 Q. You and I agree -- right? -- that the MDP bylaws

1 say nothing about recounts; right?

2 A. Doesn't that say a recount according to their
3 bylaws? So essentially that is asking them to
4 follow their bylaws.

5 Q. But the bylaws don't say anything about
6 recounts; correct?

7 A. But when they violated their bylaws to get the
8 count that they did, ordering them to follow
9 their bylaws would necessarily mean do a recount
10 according to your bylaws.

11 Q. Not my question. My question is --

12 A. I can't answer your question because you are
13 trying to manipulate it.

14 Q. I'm just --

15 A. We want the Court to order the MDP to follow
16 their bylaws, period.

17 Q. I know that's what you want. I'm asking -- my
18 question --

19 A. Mm-hmm.

20 Q. -- is quite simple, I think. Did the bylaws say
21 anything about recounts?

22 A. The bylaws doesn't say anything about recounts.

23 Q. Thank you.

24 A. But the bylaws say how a vote is to be counted
25 and if you violate that, then that means recount

1 if you're going to review it.

2 Q. I understand your position.

3 A. Okay.

4 Q. You also ask the Court to order the MDP to
5 expedite your appeal that's pending internally
6 within the MDP; right?

7 A. I mean, that is another method. It is not the
8 quickest one, but yeah.

9 Q. That's what you are asking the Court to do;
10 right?

11 A. Look, if we get -- if we --

12 Q. Ma'am, simple question. You are asking the
13 Court to do that; right?

14 A. In conjunction with if you can stop the
15 finalization of the ballots. If you can't, then
16 that's not going to be an effective remedy.

17 Q. Okay. So if the Court -- it sounds like if the
18 Court -- from your perspective, if the Court
19 can't order the Secretary of State to halt the
20 ballots or change the ballots, then it more or
21 less moots all of your requests --

22 A. Not all of them.

23 Q. -- directed at the MDP if I understand
24 correctly.

25 A. No, not all of them. I stated earlier if the

1 Court orders the MDP to follow their bylaws as
2 to how the vote should have been conducted, this
3 can be resolved today because that would require
4 applying slate voting. Or if the Court decides
5 that for some reason they don't need to apply
6 slate voting then at least reveal the raw data,
7 give it to us so we can see how all these extra
8 members voted, and if they hadn't voted, what
9 the actual tally would be. That could be done
10 within an hour.

11 Q. If the Court declines to issue an injunction
12 against the Secretary of State, what would
13 anyone benefit from a recount within the MDP?

14 A. If the recount is as we are asking according to
15 slate voting, again, that can be done in less
16 than an hour and you don't need an injunction
17 against the Secretary of State. That could be
18 resolved today.

19 Q. If the Court were to issue an injunction against
20 the Secretary of State for some reason -- strike
21 that.

22 If the Court were to decline to issue
23 an injunction against the Secretary of State and
24 it goes forward -- and the Secretary of State
25 goes forward with finalizing the ballot with the

1 names on it, what purpose at the end of the day
2 would an internal investigation or audit within
3 the MDP of the convention results achieve?

4 A. An internal audit according to what? Like their
5 own appeals process or --

6 Q. No. I'm asking -- I guess I'm asking based on
7 your prayer for relief where you ask for an
8 investigation or audit of the University of
9 Michigan Regents vote-counting process, if the
10 Court declines to enjoin the Secretary of State
11 and the Secretary of State finalizes the ballot
12 language, what are we all achieving if there
13 is -- in your view if there is an investigation
14 or audit?

15 A. Well, look, there are two things in my view.
16 There is something that can be done immediately
17 and that is follow slate voting and/or release
18 the raw data so we can actually see what the
19 numbers are.

20 The numbers they announce on the night
21 of the convention are different than the numbers
22 that Lavora emailed me the following day. So
23 even according to their own numbers they have
24 different numbers.

25 So either follow your own bylaws and

1 apply the slate voting, calculate it, and let's
2 report the final to the Secretary of State, or
3 release the raw data and let us see and let us
4 calculate. That's for the immediate.

5 But then conducting an audit into how
6 they have done this whole thing, I think that's
7 for the benefit of everybody and all of the
8 members to have accountability as members to be
9 able to know that our party that we pledge an
10 allegiance to and are active in is actually
11 accountable to its members.

12 Q. Okay. But if there is no injunction entered
13 after today --

14 A. Well, again --

15 Q. -- if this all happens next week, it all happens
16 for no purpose --

17 A. Well, again --

18 Q. -- that's going to change the outcome of what's
19 on the ballot; correct?

20 A. Well, again, the first two things I said can
21 happen now. In terms of the rest, an internal
22 audit for transparency and to be accountable to
23 your membership, that can also happen later.
24 But releasing the numbers and recalculating can
25 happen today. So there is an effective remedy

1 today.

2 Q. Ma'am, you're not, as part of your request for
3 preliminary injunctive relief, asking this Court
4 to order the MDP to declare you a winner;
5 correct?

6 A. I believe that if they followed their bylaws,
7 they will end up declaring me a winner, yes.

8 Q. But you are not asking the Court to order the
9 MDP to declare you a winner such that somehow
10 you get miraculously placed on the ballot today?

11 A. Look, that comes after doing what we are asking
12 the MDP to do.

13 Q. So the answer to my question is, no, you are not
14 asking the judge to do that?

15 A. Do I want the judge to ask the MDP to just
16 declare me a winner without doing these other
17 things? I mean, I want it to be an accountable,
18 clear, transparent process. So I would like
19 them to follow their rules first, and then I
20 believe that will lead to me being declared a
21 winner, yes.

22 Q. You believe, but you have admitted that you
23 don't think that necessarily will be the
24 outcome; right? Because in your own press
25 release from September 3rd, it says, quote,

1 Arraf is not claiming to have won, end quote.

2 Right?

3 A. I think I explained why we were talking in that
4 language. We were asking for accountability. I
5 didn't want to say, hey, we think the MDP cooked
6 the books or cheated. We want to say, hey,
7 release the data so everyone can see and maybe
8 even say there was a mistake or maybe saying
9 it's just trying to not -- you know, basically
10 cast aspersions as much as we could on the MDP.

11 As I told you, I would rather -- I
12 would have rather resolved this amicably and not
13 had to get to this point. I was trying to be
14 careful about the language we were using.

15 Q. Let's face it. Even if the judge were to order
16 MDP to do any of these things in your prayer for
17 relief, we don't know what the outcome would be
18 of those processes; right?

19 A. Well, we believe we know, but.

20 Q. But we don't know, do we?

21 A. I think -- sure, we don't know 100 percent.

22 MR. ELDRIDGE: Thank you. No further
23 questions, Your Honor.

24 THE COURT: All right. Ms. Meingast
25 or -- Mr. Grill left, I guess. Ms. Meingast,

1 anything?

2 MS. MEINGAST: No, Your Honor.

3 THE COURT: Mr. Akeel, redirect
4 examination if you wish.

5 MR. AKEEL: Thank you, Your Honor.

6 REDIRECT EXAMINATION

7 BY MR. AKEEL:

8 Q. There was discussion about asking MDP to follow
9 its bylaws. Do you recall a lot of questions
10 back and forth?

11 A. Mm-hmm.

12 Q. And requiring MDP to produce the raw data like
13 right now. Would that address the rules of
14 voting and election in the Michigan Democratic
15 Party regarding secrecy?

16 A. Yeah. At least --

17 Q. Can you explain?

18 A. At least two places in the rules and in the
19 bylaws it said there will be no secret ballot
20 within the Michigan Democratic Party.

21 Yes, effectively they are not producing
22 information that would make it so that it is not
23 a secret ballot or opaque in some way. It is
24 definitely not clear for sure.

25 Q. So there is a very simple task of just producing

1 the raw data, that would, in essence, ensure
2 that MDP is following its own bylaws and its own
3 rules ensuring that there is no secrecy in the
4 ballot voting?

5 A. Yes. There is that which I think is important,
6 but I think more important is allowing people to
7 vote who weren't properly credentialed to vote.

8 MR. AKEEL: Thank you, Your Honor. No
9 further questions.

10 THE COURT: Very good. You may step
11 down, ma'am.

12 (The witness was excused at 12:39 p.m.)

13 THE COURT: Mr. Akeel, anything further
14 you wish to present?

15 (Bench conference held from 12:40 p.m. to 12:47 p.m.)

16 THE COURT: Mr. Akeel, it's my
17 understanding from the discussion we had at the
18 bench with yourself and Mr. Eldridge that you
19 wish to call one additional witness with some
20 very limited scope of questioning. So go right
21 ahead.

22 MR. AKEEL: Yes, Your Honor. I'm going
23 to present Ms. Jennifer Kirby.

24 THE COURT: What's the name again?

25 MR. AKEEL: Jennifer Kirby. She's one

1 of the plaintiffs.

2 THE COURT: Please raise your right
3 hand.

4 Do you swear or affirm to tell the
5 truth, the whole truth, and nothing but the
6 truth?

7 MS. KIRBY: Yes, sir.

8 THE COURT: Please be seated. You can
9 adjust the microphone wherever it is comfortable
10 for you.

11 State your full name for us and spell
12 the first and the last name.

13 THE WITNESS: Hello. My name is
14 Jennifer Renee Kirby. J-e-n-n-i-f-e-r,
15 K-i-r-b-y.

16 THE COURT: Mr. Akeel, go ahead, sir.

17 JENNIFER KIRBY,

18 (At 12:47 p.m., having been called by the Plaintiffs
19 and sworn in by the Court, testified as follows:)

20 DIRECT EXAMINATION

21 BY MR. AKEEL:

22 Q. Good afternoon, Ms. Kirby.

23 A. Good afternoon.

24 Q. Are you a member of the Michigan Democratic
25 Party?

1 A. Yes. I'm a very new member.

2 Q. Were you in attendance for the convention for
3 the voting for the Board of Regents, University
4 of Michigan?

5 A. Yes, I was.

6 Q. Okay. I know you heard a lot of testimony here,
7 but we are going to focus really on one issue.

8 That night, did you talk to anybody
9 from the -- from anybody there from the party to
10 try explaining to you a process and how to
11 engage to do something?

12 A. Yes.

13 Q. Can you explain?

14 A. There was a lot of commotion going on, but there
15 was a woman in a purple shirt who said there are
16 a few ways that you can fight this. And so,
17 like, Huwaida was over by the stage and Selma,
18 who is another organizer, was over on the other
19 side.

20 I was like, okay, I will get the
21 information to who needs to know. Like, explain
22 to me what the process is. So she was saying,
23 like, you can issue what's called a lodge and it
24 is like a document that you issue to the Court
25 to plead your case.

1 I couldn't quite understand everything
2 that she was saying because in her process of
3 telling me what a lodge was, the police started
4 to shove us out the door. And they kept saying,
5 like, you need to leave now, you need to leave
6 now. The whole place was just surrounded with
7 police and it was very chaotic.

8 Q. Okay. And as a result you had to leave?

9 A. As a result I had to leave, yes.

10 Q. Okay. If the police wasn't there, would you
11 have pursued it further to see how you can
12 issue -- how you can lodge?

13 A. Absolutely.

14 MR. AKEEL: Okay. Thank you. I have
15 no further questions.

16 THE COURT: Mr. Eldridge, questions?

17 MR. ELDRIDGE: No questions,
18 Your Honor.

19 THE COURT: All right. Very good.

20 You may step down, ma'am. Thank you
21 very much.

22 THE WITNESS: Thank you, Your Honor.

23 (The witness was excused at 12:49 p.m.)

24 THE COURT: Anything further,
25 Mr. Akeel?

1 MR. AKEEL: Nothing further, Your
2 Honor.

3 THE COURT: Mr. Eldridge or
4 Ms. Meingast, anything you want to present other
5 than perhaps final comments?

6 MR. ELDRIDGE: No, Your Honor. Thank
7 you.

8 THE COURT: Ms. Meingast?

9 MS. MEINGAST: I'm set, Your Honor.
10 Thank you.

11 THE COURT: I'm going to take a short
12 break.

13 We'll come back and hear your closing
14 remarks, Mr. Akeel, and then anything in terms
15 of closing remarks that the defense attorneys
16 may want to present as well.

17 (Off the record from 12:50 p.m. to 1:07 p.m.)

18 THE COURT: Mr. Akeel, any closing
19 remarks, sir?

20 MR. AKEEL: Yes, Your Honor. I'll be
21 brief. I know you have heard the record and I
22 just wanted to address a few points.

23 You know, Your Honor, thank you for
24 allowing us the opportunity to be heard.

25 You know, the best form of democracy is

1 transparency. This is what is being asked
2 here -- for MDP to produce the data for the sake
3 of transparency and for MDP to follow their
4 bylaws to ensure the integrity of the process,
5 and what may prove that, in fact, Plaintiff won
6 a seat -- a nomination for the November ballot.

7 Your Honor, there are a lot of issues
8 regarding jurisdiction. I just want to address
9 a few points. The Michigan Democratic Party,
10 that's the proper party. There is no dispute
11 here for it to be here. Michigan Democratic
12 Party cannot be in a court of claims and the
13 Michigan Democratic Party, they are the ones
14 that committed the wrong.

15 Secretary of State did not commit a
16 wrong yet. There is no wrong. They are on
17 notice of irregularities, but there is nothing
18 there yet.

19 Also, it is a waste of judicial
20 resources to have one party at Ingham County and
21 another party at the court of claims regarding
22 the same issues. This is why it was imperative
23 to come before you to address the party that
24 committed the wrong to try to seek legal
25 redress.

1 Your Honor, the Court indicated earlier
2 the burden of proof is on Plaintiff, and I think
3 we established a burden of proof. It's beyond a
4 doubt. Exhibit 6 states "unity slate." You
5 can't have it more clear and unambiguous. And
6 sponsored by the MDP party. The logo is there.
7 All the public sees it. That's what they saw.
8 There is no question on that.

9 Whatever they want to say -- oh, this
10 was by mistake, it was what was disseminated,
11 mass, public. It is shown to the whole public
12 that the Michigan Democratic Party endorses
13 these two people to the exclusion of other
14 people, other minority coalition groups that
15 want to have an opportunity.

16 And if their rules provide for slate
17 voting, which they do, and it is not published
18 in a published website and it is for prospective
19 members who want to join and they see, oh, slate
20 voting is available, good, then the point of the
21 slate voting, again, is to give proper measured
22 weight so not to exclude the minority coalition.

23 That was kind of like a revolution in
24 2018, amendments to demonstrate that -- to at
25 least provide a camp, a tent for all those

1 people with different perspectives, whether in a
2 majority or in the minority and the slate voting
3 covers that.

4 Your Honor, we heard also from rules
5 author and a long-time Michigan Democratic Party
6 member, Liano Sharon, that he witnessed there
7 was only -- that he did the math and he's a
8 mathematician by trade, and it is unrefuted that
9 if the slate voting is adopted, Plaintiff
10 Huwaida Arraf wins a nomination on the seat.
11 It's unrefuted. No evidence to counter that.

12 You also heard he witnessed personally
13 that there was about 20 people for the quorum
14 and you need 50 percent to certify this thing.
15 So it's not even -- there's just more
16 irregularities that complicated the matter.

17 You heard unrefuted testimony regarding
18 the discrepancy in credentials. There's no
19 other evidence other than what we presented and
20 it's documented that what was initially
21 announced as the credentialed voters is
22 different than what came out as the final tally.
23 And that begs the question and raises questions.
24 Again, why the reluctance in producing the raw
25 data? It's not -- it's unacceptable.

1 Your Honor, there's been discussion
2 about why waiting and why -- you know, why there
3 was a delay in a verified complaint. You'll see
4 several correspondences and emails and attempts
5 to keep it internal to try to address it, to try
6 to obtain the raw data to no avail.

7 And that includes -- those emails
8 include Co-Plaintiffs as well. Their emails are
9 in there trying to address this wrong that
10 occurred. There is no question here that harm
11 is irreparable that if we don't -- if a
12 preliminary injunction isn't issued for the MDP
13 to produce the raw data immediately or at least
14 to comply with their own bylaws and apply the
15 voting properly that it's going to be a
16 disservice not only to the party but to the
17 citizens at large and to all the people that
18 voted who are essentially being disenfranchised
19 because they voted for a member who has been
20 wrongfully omitted from the ballot.

21 Your Honor, public interest demands
22 transparency. This is going to occur again and
23 again. There is a flaw here and there is an
24 exercise in futility.

25 They mislead Plaintiff indicating,

1 okay, you can appeal and here's the appeal
2 process. Oh, by the way, it's going to be
3 30 days and this is going to happen for every
4 candidate coming in the future from a minority
5 coalition. They are never going to have that
6 opportunity and every staggered election it will
7 be a union-backed slate with their members and
8 it's going to be a majority vote and they are
9 always going to be taken -- it's a forced
10 process here at the expense of the citizens.
11 This is really something that's being exposed
12 here and needs to be addressed.

13 Your Honor, there's been a lot of
14 questions regarding, oh, the bylaws don't demand
15 recount. That's really -- you know, it's an
16 unfortunate line of questioning because the
17 whole point of transparency and to produce the
18 raw data is you have to count it and, yes, it
19 does include recounting.

20 It doesn't say explicitly in the bylaws
21 to recount, but the whole point of not having a
22 secret ballot and to be able to have integrity
23 in the process is to be able to provide the
24 candidates the raw data so they can count
25 themselves. It doesn't have to be the MDP. It

1 could be also the candidates, but that was
2 thwarted unfortunately.

3 Your Honor, there's been a lot of,
4 obviously, concern regarding the integrity of
5 the election process and the faith and integrity
6 and the faith and integrity in the election
7 process is critical, especially during this
8 time.

9 Many students -- you heard new members
10 as they became new members of the party -- are
11 becoming disillusioned. They voted. They see
12 the numbers and they are seeing a process play
13 out where there is secrecy being cloaked here in
14 this process.

15 Again, we are asking simply for the
16 production of the raw data at a minimum -- at a
17 minimum. It could be decided within an hour and
18 resolve this. Or apply the matter, if the Court
19 deems fit, through a slate-voting method and the
20 solution can be immediately rectified or
21 addressed and all parties concerned would be
22 able to go home.

23 Your Honor, finally, I just want to
24 say, again, thank you for providing us this
25 opportunity. If there are any other questions,

1 I'll be available. Thank you.

2 THE COURT: Thank you, Mr. Akeel.

3 Mr. Eldridge.

4 MR. ELDRIDGE: Thank you, Your Honor.

5 First, Counsel in his closing remarks
6 represented that there's unrefuted testimony
7 today. You'll recall we submitted a sworn
8 declaration signed by the executive director of
9 the Michigan Democratic Party refuting virtually
10 every single factual assertion that formed the
11 basis of their challenge. I just want to remind
12 the Court of that declaration.

13 You know, sitting here today for a
14 little over four hours now, I think the
15 testimony that we heard from the witnesses
16 confirms what we said at the beginning. This is
17 a nonjusticiable intraparty conflict. It's a
18 disagreement with how the MDP interprets its own
19 rules and administers its own rules during fall
20 conventions.

21 I heard disagreement specifically about
22 the MDP's interpretation of what slate voting is
23 reserved for. I heard disagreement about what
24 the definition of multiple-position office
25 means.

1 Those are quintessentially political
2 disputes confirmed by appellate published
3 decisions by the Michigan Supreme Court and
4 federal decisions. There's not been a single
5 appellate decision, published or unpublished,
6 cited by the other side that would suggest this
7 is an appropriate situation for this Court to
8 intrude into those intraparty disputes.

9 What they are asking would be a
10 remarkable intrusion into those disputes. And
11 to highlight that intrusion I would like to just
12 remind the Court that Plaintiff is asking this
13 Court to agree with their interpretation of the
14 party rules for voting that this particular
15 position, U of M Regent, deserves a slate vote.

16 At the convention there was a vote for
17 a similar position for the MSU Board of
18 Trustees, for the Wayne State University Board
19 of Governors, and for the State Board of
20 Education, all evidenced by Plaintiffs' exhibit,
21 this advertisement from the AFL-CIO. They were
22 all handled the same way that this particular
23 position was handled. They were all done by
24 majority vote.

25 There's been zero objection lodged that

1 any of those were done incorrectly. I have not
2 heard Plaintiffs or Plaintiffs' Counsel in this
3 case suggest that those were handled
4 incorrectly, and that's because they were all
5 properly done by majority vote.

6 Why that would be an exceptional
7 intrusion or remarkable intrusion by this Court,
8 because they are asking you to simply carve out
9 this particular election for this particular
10 position and treat it differently than the MDP
11 treated all of the others at that convention.

12 Also, what I heard today is the
13 Plaintiff admit that her press release from
14 earlier this week says that she is not claiming
15 to have won and she confirmed during her
16 testimony in response to my question that even
17 if you were to order the MDP to do all of the
18 things they are asking in their prayer for
19 relief, the outcome would be uncertain at best.

20 So at almost 1:20 in the afternoon, I
21 think it still remains unclear ultimately what
22 it is that we are here to do, even if the Court
23 concludes that the plaintiffs have carried their
24 heavy burden of proof to justify the
25 extraordinary relief that's being requested.

1 For those reasons, Your Honor, and
2 those we stated earlier this morning, we ask
3 that you deny the motion in its entirety. Thank
4 you for your time.

5 THE COURT: Thank you, Mr. Eldridge.

6 Ms. Meingast, any closing remarks?

7 MS. MEINGAST: Just briefly,
8 Your Honor.

9 I think the only thing I have heard as
10 to the Secretary of State was from Mr. Akeel in
11 his closing there on the extent that
12 jurisdiction -- you know, the question of
13 jurisdiction that simply being inconvenient to
14 have two lawsuits. That doesn't overrule the
15 Court of Claims Act and the fact that there is
16 exclusive jurisdiction against the Secretary in
17 this case in the court of claims.

18 For that reason, Your Honor, we would
19 ask that you dismiss the Secretary from this
20 lawsuit and certainly deny any injunctive relief
21 as to her as there is no jurisdiction.

22 THE COURT: Thank you, ma'am.

23 Mr. Akeel, anything further?

24 MR. AKEEL: Yes, Your Honor, just
25 quickly.

1 Regarding the justiciable argument,
2 again, our claim that the bylaws need to be
3 followed recited *Pego versus Karamo*. Count 1 is
4 declaratory judgment, a contractual-type claim.
5 Count 3 is a breach of contract claim. So we
6 are -- this is the gravamen of our complaint
7 here and courts are well equipped to interpret
8 and enforce contracts between entities.

9 Your Honor, finally, there was
10 discussion about that Wayne State and Michigan
11 State are also -- you know, there was no issue
12 there. They were actually presented as a slate.
13 There was a voice vote. There wasn't a
14 tabulation and there was no contest. Yes.
15 That's the way it is supposed to happen. This
16 is why we are here because of the uniqueness of
17 the situation. Thank you.

18 THE COURT: All right. Thank you,
19 Mr. Akeel.

20 I want to first make it clear what I
21 think is clear to everybody, but after hearing
22 all of the testimony and arguments, I think I
23 want to bring this back to the reason we are
24 here today. That is that there is a motion
25 before the Court to grant a preliminarily

1 injunction. I'll comment in a moment about why
2 I want to make sure that's clear with respect to
3 the ruling that I am about to make with regard
4 to the complaint that has been filed and the
5 relief requested.

6 In order to grant a preliminarily
7 injunction, I am to consider certain factors.
8 Both parties have pointed out that the factors
9 are pretty clear. Longstanding elements in case
10 law that has outlined the issues and the
11 elements that the Court is to consider including
12 whether the moving party has made the required
13 demonstration of irreparable harm, whether the
14 harm to the party seeking the injunction absent
15 an injunction would outweigh the harm it would
16 cause the adverse party if an injunction were
17 issued, whether the moving party showed it is
18 likely to prevail on the merits, and whether
19 there would be harm to the public interest or
20 weighing the public interest if an injunction is
21 issued in this case.

22 We earlier addressed right off the top
23 of this hearing that it is the plaintiffs'
24 burden to show the elements have been met to
25 warrant the granting of this unique relief of

1 preliminary injunction.

2 I am going to deny the emergency
3 relief, the injunction that has been requested
4 for a couple of very specific reasons.

5 One is -- and I think this is
6 ultimately fatal to the request to the
7 Plaintiffs' motion, and that is that there can
8 be no irreparable injury here for, again, a very
9 specific reason. I know the presentation has
10 been that if I don't grant this relief that
11 there would be a lost opportunity for Ms. Arraf
12 to get on the election ballot because the
13 Secretary of State will comply with the statute
14 and provide the notice to each of the counties.
15 The statute is MCL 168.648.

16 That is, I think, a misdirection of the
17 focus of irreparable injury. I don't think
18 there is any question that there would be -- and
19 I think, Mr. Akeel, you argued that there really
20 should be no issue as to irreparable injury. I
21 think that's correct if you are looking at the
22 opportunity for your client to get on the
23 ballot. I think that where the incorrect focus
24 is -- the focus is whether I can do anything
25 about it or not.

1 So the fact that if I grant the relief
2 you request, I could not stop the Secretary of
3 State from doing what she is obligated by
4 statute to do, I think leads to the inescapable
5 conclusion that for purposes of this
6 preliminarily injunction motion, regardless of
7 whatever the testimony is, there is no way to
8 show an irreparable injury by me not granting
9 the request to have the Michigan Democratic
10 Party do all these things that you are
11 requesting the Michigan Democratic Party to do.

12 In other words, the irreparable injury
13 is connected to whether the Secretary of State
14 provides the counties the notice required by
15 Michigan Compiled Law 168.648. Again, I have no
16 authority to stop that regardless of the weight
17 of the testimony and the document evidence that
18 you have provided and the arguments on behalf of
19 the plaintiffs regardless of what my conclusions
20 are about -- and what conclusions I may draw
21 from that testimony I heard today and the
22 presentation that has been made.

23 I think that point, in fact, was on
24 some level conceded in the argument made today
25 by saying, well, it may have influence on the

1 Secretary of State as to what she may do with
2 regard to completing her obligation under the
3 statute today or being on notice of some
4 irregularity in the nominating process within
5 the Democratic Party.

6 It may be that she takes notice of
7 that. She'll, of course, have to make her own
8 decision with regard to that.

9 But I do think, as I said a moment ago,
10 that if we look at the issue of what I can do
11 and whether or not there is irreparable injury
12 by not granting the injunctive relief apart from
13 stopping the Secretary of State of certifying or
14 providing the notice, I guess is technically the
15 language in the statute.

16 If we focus on granting the
17 preliminarily injunction as to what you are
18 asking me to order the Michigan Democratic Party
19 to do, that's not where the irreparable injury
20 focus needs to be. It has to be on whether or
21 not the Secretary of State could be stopped by
22 anything I do, and clearly the answer to that is
23 no. I don't think that was even largely
24 contested here today.

25 Also, I am not sufficiently

1 convinced -- at least to the level I believe I
2 need to be for purposes of granting injunctive
3 relief, I'm not sufficiently convinced that the
4 plaintiff can prevail on the merits.

5 When I put it in the context of the
6 only published authority -- appellate authority
7 that comes close to addressing this issue of the
8 court becoming involved in the intraparty
9 political party actions, and that is the case of
10 *American Independent Party of Michigan versus*
11 *the Secretary of State*, a case in the Michigan
12 Supreme Court, 397 Mich. 689, a 1976 case, which
13 cites from the U.S. Supreme Court among other
14 cases that are addressed by Michigan Supreme
15 Court in that particular case.

16 The requested relief in this motion
17 under parts A and B are that I order Defendant
18 MDP, by and through its officials including
19 Defendant Barnes, to conduct a full and
20 transparent investigation or audit of the
21 University of Michigan Regents vote-counting
22 process and/or a recount of the votes. And
23 that's subpart A of the prayer for relief. B is
24 ordering Defendant Michigan Democratic Party, by
25 and through its officials including Defendant

1 Barnes, to expedite Plaintiff Arraf's appeal.

2 As pointed out by Mr. Eldridge, it
3 appears that in the actual rules there is no
4 bylaw that creates a process for a transparent
5 investigation or an audit or a recount or to
6 expedite an appeal for that purpose -- for the
7 purposes requested by the plaintiff.

8 Now, I'm not saying those things
9 shouldn't happen. I'm not even saying that
10 Ms. Arraf is incorrect in saying, well, even
11 though it doesn't say recount, if you're going
12 to follow the bylaws as to how the vote is
13 tallied, there is implicit in that the ability
14 to review that or to have the information that
15 would allow someone to independently tally the
16 votes and look at whether something was done
17 correctly.

18 However, again, referring back to the
19 Supreme Court opinion -- Michigan Supreme Court
20 opinion in *American Independent Party*, that
21 request -- those two components of the prayer
22 for relief and the motion for preliminarily
23 injunction come very close to asking me to
24 intervene and impose on the party internal rules
25 that, according to the case that I just

1 mentioned, I would not be permitted to do, or at
2 least it's not clear from that case that a court
3 is permitted to do that.

4 That's not to exclude the possibility
5 of what Mr. Akeel has argued here as to whether
6 or not a court of jurisdiction could address, by
7 way of litigation, the issues of breach of
8 contract or some other violation or that a party
9 could seek declaratory relief in some form.

10 All I'm saying here with regard to my
11 ruling as to whether I'm convinced sufficiently
12 that the plaintiff could prevail on the merits
13 is that according to the *American Independent*
14 *Party of Michigan* case, absent either an
15 allegation of a statutory provision governing
16 nominations for elections or elections
17 themselves or a constitutional issue, that
18 political parties are left to make and follow
19 their own rules.

20 I understand the tremendous frustration
21 of Ms. Arraf, and I even understand the
22 sentiment and the argument by Mr. Akeel that
23 essentially there has to be some kind of remedy.
24 I get that that's the argument, but, again,
25 under the case law and with the concession that

1 there is not a claim here of a violation of a
2 statute apart from the one I'll mention again in
3 a moment, and that is the Nonprofit Corporation
4 Act, but no violation claimed of an election
5 statute or constitutional right.

6 I'm not sufficiently convinced at this
7 point, at least to the extent of granting
8 preliminarily injunction relief and given that
9 the bylaws do not specifically say with regard
10 to those areas of specific relief requested in
11 the motion as to what I'm being asked to order
12 the Michigan Democratic Party to do.

13 Now, getting back to the question of
14 where that leaves the parties, I am aware and
15 I'm not ruling on the merits of Count 1.
16 Mr. Akeel pointed out a couple of the counts in
17 the complaint -- Count 1, the declaratory relief
18 count; Count 3, the breach of contract count;
19 Count 4, the Michigan Nonprofit Corporations Act
20 claimed violation.

21 Whether or not those are viable claims
22 for a complaint separate from this request for
23 preliminary injunction -- Count 2, by the way,
24 was the request for preliminary injunction, but
25 Counts 1, 3, and 4, I'm not making a ruling on

1 that. The parties can file motions on that if
2 they wish. The plaintiff could choose to
3 proceed or not proceed on those cases -- those
4 counts and however that shakes out in the course
5 of litigation is where it will go.

6 And so I'm not taking any action with
7 regard to those particular counts other than as
8 they may have impacted the argument -- the
9 plaintiff's argument as to requests for
10 preliminary injunction.

11 I am, however, going to dismiss the
12 Secretary of State from this case based on lack
13 of jurisdiction by me as to what I understand to
14 be the claim against the Secretary of State and,
15 as I commented earlier, my absence of authority
16 to enjoin or otherwise grant some relief against
17 Defendant Benson as the Secretary of State.

18 I think it would be appropriate for one
19 side or the other to prepare a written order. I
20 would hope that it would be one the language of
21 which the parties could agree upon so an order
22 can be entered forthwith. Whether you want that
23 to say for the reasons stated on the record, I
24 have not yet drafted an order. I can do that
25 here quickly and sign something that satisfies

1 whatever use the parties may make of it for the
2 rest of the day today, it being 1:40 in the
3 afternoon.

4 I'll defer to Counsel as to how you
5 want to do that, whether you want to draft your
6 own order and try to come to an agreement on it
7 or you want me to put together something quickly
8 that you can walk out of the courtroom with here
9 today.

10 Mr. Akeel, I'll hear from you first.

11 MR. AKEEL: Your Honor, something
12 simple -- for the reasons stated on the record,
13 Plaintiffs' motion is denied and Secretary of
14 State is dismissed -- I think would suffice.

15 THE COURT: Mr. Eldridge.

16 MR. ELDRIDGE: I don't have any
17 objection to that, Your Honor.

18 THE COURT: Ms. Meingast?

19 MS. MEINGAST: Fine with me,
20 Your Honor.

21 THE COURT: Give me a minute and I'll
22 prepare an order and hand it to you before you
23 leave yet this afternoon.

24 Mr. Akeel, what I would suggest you do
25 is there are two options with regard to what you

1 marked as Proposed Exhibits 1 and 2. One is
2 that we give them to my court reporter if you
3 want her to keep them as part of the
4 transcript --

5 MR. AKEEL: Yeah.

6 THE COURT: -- or you keep them for use
7 with whatever you may do with it beyond this.
8 How do you wish to do it?

9 MR. AKEEL: Just for completion of the
10 record, be held together.

11 THE COURT: Mr. Eldridge, they are not
12 admitted, but it would be no different than any
13 other proffered evidence that we make a record
14 of and is kept for purposes of any appeal or
15 other use. So that would be my intention with
16 it --

17 MR. ELDRIDGE: Fair enough.

18 THE COURT: -- if my court reporter
19 will take it. Otherwise it will be returned to
20 the parties to keep.

21 MR. ELDRIDGE: No problem with that,
22 Your Honor. Just maybe Mr. Akeel could send me
23 a copy of the video.

24 MR. AKEEL: Yeah.

25 MR. ELDRIDGE: I haven't seen that. I

1 have the photo, just not the other piece.

2 THE COURT: Fair enough.

3 MR. ELDRIDGE: Just so I have a
4 complete record as well.

5 THE COURT: Sure. We'll do it that way
6 then.

7 Before I go off the record to sign that
8 order, is there anything else for the record,
9 Mr. Akeel?

10 MR. AKEEL: No, Judge. Thank you.

11 THE COURT: Mr. Eldridge?

12 MR. ELDRIDGE: Nothing, Your Honor.

13 Thank you.

14 THE COURT: Ms. Meingast?

15 MS. MEINGAST: No, Your Honor. Thank
16 you.

17 THE COURT: Thank you all for your
18 excellent presentation.

19 (The hearing concluded at 1:41 p.m.)

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STATE OF MICHIGAN)
) SS.
COUNTY OF INGHAM)

CERTIFICATE OF STENOGRAPHER

I, Kelli L. Werner, Certified Shorthand Reporter, do hereby certify that the foregoing 186 pages comprise an accurate, true, and complete transcript of the proceedings and testimony taken.

I further certify that this transcript of the stenographic record of the proceedings and testimony truly and correctly reflects the exhibits, if any, offered by the respective parties. WITNESS my hand this date, 9th day of September, 2024.



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